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Legislative Assembly of Ontario

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Official Report of Debates (Hansard)

Thursday 19 May 1994

Journal des débats (Hansard)

Jeudi 19 mai 1994

Standing committee on general government

Land Lease Statute Law
Amendment Act, 1993

Subcommittee report

Chair: Michael A. Brown
Clerk: Franco Carrozza

Comité permanent des affaires gouvernementales

Loi de 1993 modifiant des lois
en ce qui concerne les terrains à bail

Rapport de sous-comité

Président : Michael A. Brown
Greffier : Franco Carrozza



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Thursday 19 May 1994

Jeudi 19 mai 1994

The committee met at 1036 in room 228.

SUBCOMMITTEE REPORT

The Chair (Mr Michael A. Brown): The standing committee on general government will come to order. I believe all members have a copy of the subcommittee report. It reads:

"That the committee cancel the meeting of Thursday, May 19, 1994, and reschedule this meeting to Thursday, June 9, 1994, to permit the proponent of Bill 21 to meet with interested parties on Tuesday, June 7, 1994."

That's the report of the subcommittee. That was not a consensus report.

Mr Paul Wessenger (Simcoe Centre): I would move that the recommendation be replaced in the subcommittee report as follows:

I move that—

The Chair: But we haven't actually moved the subcommittee report.

Mr Ron Eddy (Brant-Haldimand): We've previously had the explanation of why the subcommittee is presenting this motion and—

The Chair: Mr Eddy, would you like to just make the motion? Then we can talk about it. Just move the subcommittee report.

Mr Eddy: Yes, I would.

The Chair: Mr Eddy moves the subcommittee report. You have an amendment, Mr Wessenger.

Mr Wessenger: Yes. I move that the committee report be amended to provide as follows:

I move that the committee recommence clause-by-clause consideration of Bill 21 on May 19, 1994, and continue with consideration thereafter, with the intention that clause-by-clause consideration be completed not later than June 16, 1994.

The Chair: I would think that amendment is out of order. We could deal with the main motion and then you could put a motion of your own, but it seems to me this totally negates the sense of the subcommittee motion. We'll deal with this. I think it's more than a minor amendment. It changes the sense dramatically of what the subcommittee reported.

Do we have any discussion on the subcommittee report? If not, all those in favour of the subcommittee report? Opposed? The subcommittee report is lost.

Mr Wessenger: I move that the committee recommence clause-by-clause consideration of Bill 21 on May 19, 1994, and continue with consideration thereafter,

with the intention that clause-by-clause consideration be completed not later than June 16, 1994.

If I might indicate the reason for the June 16, 1994, continuation date, it was a suggestion made in subcommittee discussions that that would be an appropriate time to complete clause-by-clause. There are three substantial areas that we would like to have meetings with stakeholders on with respect to the bill. My intention is to stand down those areas of substantial items so they'd be dealt with starting on June 9, 1994.

Those substantial items, I might indicate, are the questions that have been raised through the hearings, the three areas that were raised with respect to the original provisions of Bill 21. One related to the first-right-of-refusal provisions, the second one related to the sign provisions, and the third one related to the reserve funds, although we might be able to deal with the reserve funds. I think we probably could, because I'll be recommending that we vote against the reserve funds so they'll be deleted. But we could stand it down if you wanted to. I think we've met all the objections by deleting the reserve funds. So there are two items anyway, and there may be a couple of other items that arise during the discussions which we may wish to stand down. Certainly, I'd be prepared to look at those. They are matters of substance; certainly, I'm quite prepared to consider standing them down. But I think it's important that we proceed because there are a lot of technical amendments and I think it's important we get the technical work done so we can deal with the substance.

Mr Eddy: The only concern I would have is that you're going to stand certain clauses down, but what happens if a clause that's stood down and is subsequently dealt with and changed affects some other clause that we've already dealt with and approved? Can we revisit that clause then, if it's affected? I don't know whether that would happen or not. It might.

Mr Wessenger: If any of the technical clauses deal with a matter of substance—there is one I'll be asking to be stood down in one of the technical items in the first eight amendments. Well, one of them has been passed. Up to number 8 they're all technical, but one of those will have to be stood down.

The Chair: Mr Wessenger's motion, as I understand it, is one that gives direction but doesn't bind the committee to anything. So while Mr Wessenger's explaining that he would like and thinks the way we should proceed is to stand down whatever we want, that can only happen with unanimous consent of the committee. If a stood-down clause is altered in some way, any section that it

might impact on needs unanimous consent to be reopened. Mr Arnott, did you have some comments?

Mr Ted Arnott (Wellington): Unfortunately, I'm not aware of what the subcommittee discussed. I would like a copy of Mr Wessenger's motion, actually. Could I get that from the clerk?

Clerk of the Committee (Mr Franco Carrozza): I can have it Xeroxed.

The Chair: If I might be able to précis the motion, really, the motion just says we will begin clause-by-clause immediately and we hope to have it done by June 16—strong on the word “hope.”

All in favour of Mr Wessenger's motion? Carried.

That was easier than the subcommittee meeting.

Mr Wessenger: Yes, it was; much easier.

LAND LEASE STATUTE LAW
AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE LES TERRAINS À BAIL

Consideration of Bill 21, An Act to amend certain Acts with respect to Land Leases / Projet de loi 21, Loi modifiant certaines lois en ce qui concerne les terrains à bail.

The Chair: Now we will commence the consideration of Bill 21, An Act to amend certain Acts with respect to Land Leases.

All members, I believe, now have a package of the proposed amendments and a copy of the proposed bill. When we last were considering this bill, we were speaking to an amendment to subsection 1(2). The clerk has numbered that, just for information purposes, 2 in your yellow sheets so that we're all starting in the same place.

Mr Wessenger: Maybe I should just review the purpose of the amendment.

The Chair: That might be helpful. Some of us may have forgotten.

Mr Wessenger: The amendment includes the term “land lease community home” in the definition of “residential premises.” That's the whole purpose, to include land-lease community homes as part of the definition of residential premises. It was a technical aspect that was just not caught in the initial drafting situation.

The Chair: Further questions or comments concerning Mr Wessenger's proposed amendment to subsection 1(2)? If not, shall Mr Wessenger's amendment to subsection 1(2) carry? Carried.

Shall section 1, as amended, carry? Carried.

We'll start with section 2.

Mr Wessenger: I have an amendment to that. I move that the definition of “non-seasonal mobile home park” in section 79 of the Landlord and Tenant Act, as set out in section 2 of the bill, be struck out.

The explanation is that originally we introduced the concept in my bill of a non-seasonal mobile home park. Since then, it has been pointed out to me that we already have a distinction in effect. We have a four-month situation. If a mobile home is only occupied four months, it's not subject to the Landlord and Tenant Act, so we don't

need to create three categories. It was felt to be unnecessarily confusing to have three categories of mobile home parks. So we're taking out the non-seasonal and this will be done throughout the bill, because again it was one of these technical aspects in the initial drafting that was not caught. We already did have it, but the recognition that they're excluded from the Landlord and Tenant Act.

The Chair: Are there questions or comments or further amendments? Shall Mr Wessenger's amendment to section 2 carry? Carried. That section will be struck out.

Now we'll discuss section 2. This is an unusual way but because it will be part of the bill, that's how it has to be done. Are there questions, comments or further amendments to section 2? If not, shall section 2, as amended, carry? Carried.

Section 3: Questions, comments or amendments? If not, shall section 3 carry? Carried.

Section 4: Questions, comments or amendments? If not, shall section 4 carry? Carried.

1050

Section 5: Questions, comments or amendments? Shall section 5 carry? Carried.

Section 6: I believe, Mr Wessenger, you have an amendment.

Mr Wessenger: Yes, I do. I move that clause 84(3)(a) of the Landlord and Tenant Act, as set out in section 6 of the bill, be amended by striking out “entered into or renewed” in the fifth and sixth lines and substituting “that is in force.”

It's basically just a technical aspect. The legal experts believe “that is in force” is more effective than “entered into or renewed,” because whether the agreement is actually in effect is what's important, not whether it was entered into or renewed. So you would only want it to apply where there's an existing tenancy relationship, not something that is theoretical. So it's a technical one to correct that.

The Chair: Questions or comments regarding Mr Wessenger's amendment? Shall Mr Wessenger's amendment to section 6 carry? Carried.

Questions, comments or further amendments to section 6? Shall section 6, as amended, carry? Carried.

Section 7: Questions, comments or amendments? Shall section 7 carry? Carried.

Section 8: Mr Wessenger?

Mr Wessenger: I move that subsection 94(6) of the Landlord and Tenant Act, as set out in section 8 of the bill, be amended by striking out “entered into or renewed” in the fifth and sixth lines and substituting “that is in force.”

The Chair: Shall the amendment carry? Carried.

Shall section 8, as amended, carry? Carried.

Mr Wessenger: There's a second amendment.

The Chair: Oh, I'm sorry. I got ahead of us.

Mr Wessenger: I guess you'll have to undo that one; there's another amendment to section 8.

The Chair: Do we have unanimous consent to reopen section 8? Agreed.

Mr Wessenger: I move that subsection 94(6) of the Landlord and Tenant Act, as set out in section 8 of the bill, be struck out and the following substituted:

"Same

"(6) Despite subsection (5), this section applies to tenancies under tenancy agreements for possession of land intended and used as a site for a land lease community home used for residential purposes that is in force on or after the day the Land Lease Statute Law Amendment Act, 1993 receives royal assent and to periodic tenancies for the possession of such land that are in effect on or after that day and, in the case of other land, the law applies to tenancies for the possession of such land as it existed immediately before that day."

Interjection: This is just an alternative motion.

Mr Wessenger: Oh. I'm going to withdraw that one.

The Chair: So the Chair was right in the first place.

Mr Wessenger: Yes, the Chair was right in the first place.

The Chair: Unbeknownst to the Chair.

Shall section 8, as amended, carry? Carried.

Mr Eddy: So the proposed amendment was here listed, but it's withdrawn? Is that right?

Mr Wessenger: It's withdrawn.

Mr Eddy: Okay, because the other one would have been redundant.

Mr Wessenger: Yes, it would have been redundant, that's right.

The Chair: Section 9: Are there questions, comments or amendments? Shall section 9 carry? Carried.

Section 10: Questions, comments or amendments? Shall section 10 carry? Carried.

If you look at the amendments, I believe you have an amendment 10.1.

Clerk of the Committee: Which is out of order, because that section is not in this bill.

Mr Wessenger: No, I don't have an amendment.

The Chair: That's good. I'm told that likely it's out of order anyway.

Clerk of the Committee: That's number 8 we're talking about.

Mr Wessenger: I'd like to stand number 8 down because it relates to, first of all, an amendment that's not been dealt with yet, so I'm asking that it be stood down.

Mr Eddy: I wondered what happened to motion 7. Did we deal with that?

Mr Wessenger: They were in reverse order, Mr Eddy. That's the problem.

The Chair: Could I have some help here? This would be a totally new section if it were actually introduced.

Mr Wessenger: That's right, so I would ask that it be stood down.

The Chair: I guess we can deal with that amendment at a later date.

All right. Now we're to section 11, which is numbered 7 up at the top.

Mr Eddy: Mr Chairman, I'm not clear what we've done with motion 8.

The Chair: I can help you, I think. We have done nothing with 8. It won't be considered at this point.

Mr Wessenger: I have to move it in order for it to be stood down.

I move that the bill be amended by adding the following section:

"10.1 Subsection 122(1) of the Landlord and Tenant Act is amended by adding after '125' in the third line '125.2.'"

I've asked that that be stood down because it relates to a further section that we—

The Chair: I'm afraid, Mr Wessenger, that this amendment is out of order, because we're trying to open a section that isn't open. We can ask for unanimous consent.

Mr Wessenger: I was going to suggest we wait for unanimous consent. Could I ask for unanimous consent now to—

The Chair: Stand it down. Do we have unanimous consent to stand it down and to reopen? Agreed.

Clerk of the Committee: You're asking for unanimous consent to place the amendment, then you're asking for unanimous consent to stand it down?

Mr Wessenger: That's right. I'm asking for unanimous consent to place the amendment.

The Chair: Do we have unanimous consent to place the amendment? Agreed. And we have unanimous consent to stand this amendment down.

Now we'll move to section 11 of the bill, which is number 7 on the amendment sheets in the corner.

Mr Wessenger: I move that subsection 125.1(1) of the Landlord and Tenant Act, as set out in section 11 of the bill, be amended by striking out "non-seasonal" in the third and fourth lines.

This again is a technical amendment with respect to my comments made previously.

Mr Arnott: Are you standing this one down, Mr Wessenger?

Mr Wessenger: No, because it's just technical. I thought we should get the "non-seasonal"—we've already taken it out so we might as well do the technical.

Mr Arnott: Do you intend to move that we pass section 11?

Mr Wessenger: No, I don't intend to pass all of section 11, but I thought we'd get the technical parts out of the way.

The Chair: Questions/comments regarding Mr Wessenger's amendment?

Mr Wessenger: Do you want me to do number 7?

Clerk of the Committee: Withdraw.

Mr Wessenger: Withdraw number 7. Okay.

The Chair: Mr Wessenger has withdrawn his amendment.

Mr Eddy: May I ask why?

Mr Wessenger: It's already covered in number 9. I

thank legislative counsel for pointing that out.

The Chair: All right. Now we're dealing with section 11. All amendments previously have been withdrawn. You wish to place—

Mr Wessinger: I'm going to place it and then I'm going to ask that it be stood down.

1100

I move that section 125.1 of the Landlord and Tenant Act, as set out in section 11 of the bill, be struck out and the following substituted:

"Right of first refusal

"125.1(1) If a tenancy agreement contains a provision prohibiting a tenant who owns a mobile home that is situated in a mobile home park from selling the mobile home unless the tenant first offers to sell it to the landlord, the landlord shall not exercise the option to purchase the mobile home unless,

"(a) the landlord exercises the option within seventy-two hours of receiving notice that the tenant has received an offer to purchase from a prospective purchaser; and

"(b) the landlord agrees to purchase the mobile home on the same terms and conditions as are contained in the prospective purchaser's offer to purchase.

"Purchase at reduced price

"(2) Despite subsection (1), any provision described in subsection (1) contained in a tenancy agreement is void if it provides that the landlord may purchase the mobile home at a price that is less than the one contained in the prospective purchaser's offer to purchase.

"Restriction on real estate agent

"(3) Despite subsection (1), any provision in a tenancy agreement requiring a tenant who owns a mobile home that is situated in a mobile home park to use the landlord as an agent for the sale of the mobile home is void.

"Application

"(4) Despite any agreement or waiver to the contrary, this section applies to tenancies under tenancy agreements entered into or renewed before and subsisting on the day the Land Lease Statute Law Amendment Act, 1993 receives royal assent or entered into on or after that day."

I'm going to ask that this be stood down. This is one of the substantive items that I referred to previously.

The Chair: Do we have unanimous consent to stand Mr Wessinger's amendment down? Agreed.

Mr Wessinger: We'll stand down all of section 11 because all the other—

The Chair: We'll stand down section 11. Agreed? Agreed.

The Chair sees an amendment to 11.1.

Interjections.

The Chair: Oh, right. Section 11: Mr Wessinger, did you wish to place this amendment?

Mr Wessinger: The one marked number 10. No, I don't wish to place this. As section 11 is still open, I don't wish to place that one.

I would advise that number 11 and 12 are being withdrawn because they're unnecessary.

Mr Eddy: What is the disposition? Are they being withdrawn?

The Chair: They haven't been moved. He's not going to place them.

Clerk of the Committee: Your amendments which have the 10 circled and 11 and 12 will not be moved as of now, so just disregard them.

The Chair: I'm looking at amendment 13. Mr Wessinger, do you wish to place that?

Mr Wessinger: No, we don't wish to place 13.

The Chair: All right. Now we're moving to section 12 of the bill. Mr Wessinger has an amendment.

Mr Wessinger: I move that sections 128.2, 128.3, 128.4, 128.5, 128.6 and 128.7 of the Landlord and Tenant Act, as set out in section 12 of the bill, be struck out.

The purpose of this amendment is to delete all the provisions relating to a reserve fund with respect to the bill. I had indicated earlier my intention to remove the reserve fund from the bill because of the complications. We may want some discussion on this, but it was felt by all parties that it was unworkable.

Mr Eddy: So the deletion is a permanent one; it's not coming back.

Mr Wessinger: No, it's not coming back.

The Chair: In essence what this does, Mr Wessinger, so that members understand, is leave 128.1(a) and (b) in place. After that, everything is deleted.

Mr Wessinger: Everything else is gone. That's right.

The Chair: Do members understand what's happening here?

Mr Arnott: Mr Wessinger, did you not say at the outset of the meeting that you were going to stand down the—

Mr Wessinger: I could if you wish, but I think all parties have agreed. It's not a contentious matter that the reserve fund is to go. There's nobody who wants a reserve fund with respect to this bill. Every stakeholder wants it out.

The Chair: If the Chair can depart from his normal neutrality, I think Mr Wessinger has characterized this correctly.

Mr Gregory S. Sorbara (York Centre): Attaboy, Chair.

The Chair: All in favour of Mr Wessinger's amendment? Agreed.

Then we will deal with section 12, as amended. Questions, comments or further amendments? Shall section 12 carry? Carried.

Section 13.

Mr Wessinger: Again this relates purely to the reserve fund, so I'd recommend that we vote against this section.

The Chair: Questions or comments on section 13? Shall section 13 carry? Section 13 is lost.

Section 14: Questions, comments or amendments? Shall section 14 carry? Carried.

Section 15: Questions, comments or amendments to

section 15? Shall section 15 carry? Carried.

All right, subsection 16(1): Questions, comments?

Mr Wessenger: I'm recommending we vote against subsection 16(1).

The Chair: And why?

Mr Wessenger: It's necessary to remove any reference to the term "residential unit" currently found in the bill. This term is an unnecessary change to the Rental Housing Protection Act. In other words, we originally were going to define the term "residential unit," and it was felt to be completely unnecessary, by technical advice.

The Chair: Questions or comments? Shall subsection 16(1) carry? It's lost.

1110

Subsection 16(2).

Mr Wessenger: This is one of the new ones. I don't think members have a copy of this yet, so we'll need some copies.

The Chair: This is an amendment no one has seen. So the section 17 we have will not be moved?

Mr Wessenger: This will be moved instead. This is a technical amendment to bring the definition in accordance with the Rental Housing Protection Act as amended by Bill 120. It's to make it coincide.

The Chair: Mr Wessenger, before you move your amendment, perhaps we should stand it down for a minute while we allow the clerk to photocopy it for other members. We'll come back to it.

We'll then move on to subsection 16(3). Mr Wessenger has an amendment to subsection 16(3).

Mr Wessenger: I move that the definition of "rental unit" in section 1 of the Rental Housing Protection Act, as set out in subsection 16(3) of the bill, be struck out and the following substituted:

"rental unit" means premises used as rented residential premises and includes,

"(a) premises that have been used as rented residential premises and are vacant; and

"(b) a rented site for a mobile home or a rented site for a land lease community home even if the mobile home or the land lease community home on the site is owned by the tenant of the site."

The reason for this is that we need to change the definition of rented residential premises to include rented mobile homes and land-lease community homes and the sites. Without it, the sites would not be covered.

The Chair: Questions, comments? Shall Mr Wessenger's amendment to subsection 16(3) carry? Carried.

Subsection 16(4).

Mr Wessenger: I move that subsection 16(4) of the bill be struck out and the following substituted:

"(4) Section 1 of the act is amended by adding the following definitions:

"infrastructure" includes, with respect to a land lease community or a mobile home park, the roads, water supply, fuel, sewage, drainage and electrical systems and such other things or systems as may be prescribed that,

"(a) are under the direct or indirect control of the landlord, and

"(b) provide access or service to the park or community or to any rental unit in the park or community;

"land lease community" means the residential premises and the land, structures and facilities of which the landlord retains possession and that are intended for the common use and enjoyment of the tenants of the landlord where two or more occupied land lease community homes are situated;

"land lease community home" means any dwelling that is a permanent structure where the owner of the dwelling leases the land used or intended for use as the site for the dwelling, but does not include a mobile home;

"mobile home" means any dwelling that is designed to be made mobile and constructed or manufactured to provide a permanent residence for one or more persons, but does not include a travel trailer, tent trailer or a trailer otherwise designed;

"mobile home park" means the residential premises, and the land, structures, services and facilities of which the landlord retains possession and that are intended for the common use and enjoyment of the tenants of the landlord where two or more occupied mobile homes are located for a period of sixty days or more."

This basically sets out the definitions for the Rental Housing Protection Act, so it's a technical definition clause. It defines what "infrastructure" means, what "land lease community" means.

The Chair: Further questions or comments on Mr Wessenger's amendment? Shall Mr Wessenger's amendment to subsection 16(4) carry? Carried.

Do I see a further amendment to section 16?

Mr Wessenger: I move that subsection 16(5) of the bill be struck out and the following substituted:

"(5) Section 1 is further amended by adding the following subsections:

"Unorganized territories

"(2) For the purposes of the application of this act to land lease communities or mobile homes parks located in territories without municipal organization, a reference in this act to a municipality, its council or any officers or employees shall be deemed to be a reference to the Minister of Housing or to a person to whom responsibility is delegated under section 23.

"Delegation of power under act

"(3) The minister or a person to whom responsibility is delegated under section 23 may by order exercise any power that a municipality would exercise by bylaw under this act."

There are an awful lot of parks in unorganized territories that are not covered in northern Ontario, so this—

The Chair: I understand that this particular amendment is out of order, however, and we will have to ask for unanimous consent for it to be considered. Do I have unanimous consent? Agreed.

Are there questions or comments to Mr Wessenger's amendment to subsection 16(5)? Being the only one in

the room who represents any unorganized territory, I have a technical question.

The power of delegation in many instances, or at least in some instances I'm aware of, is not to a person but to a board. For example, the Manitoulin planning board deals with minister's orders.

1120

Mr Wessenger: Can I ask legislative counsel or the Ministry of Housing people to comment on that? Maybe a legal person from the Ministry of Housing would like to comment. Mr Chair, are you suggesting it might be—

The Chair: I'm not suggesting anything. I'm asking a question of fact.

Mr Ron Hansen (Lincoln): That's important, because in Algoma I know the Sault Ste Marie Board of Education is involved with the tax part in the Waboose area, if you know where that is.

The Chair: We have, for example, in the district of Manitoulin, a planning board that is delegated by the minister to make decisions in both the organized, which is one process, and the unorganized, under a different process. It isn't, to my knowledge, the person; it is the board that has had the power delegated to it. I just wonder if this amendment encompasses that particular situation. I could be wrong, but I'm just asking for the legal.

Mr Wessenger: Could I ask legal counsel or someone to comment on that?

Mr Noah Morris: My name is Noah Morris. I'm a policy adviser with the Ministry of Housing. I'm not giving a legal opinion on this, but I believe the intention of the amendment was to delegate authority to the Minister of Housing and employees of the Ministry of Housing.

The Chair: But there are local boards that are empowered by the Minister of Housing to do things in the planning field. They've had the authority delegated to them, and it is effective in at least some unorganized municipalities or territories.

Mr Eddy: If that's the case, it could easily be changed to read "or to a person or body to whom responsibility is delegated."

The Chair: This is a technical amendment and I just would like it to reflect the technical—

Mr Wessenger: We could have some legal advice about what it would involve if we added the words "or body."

Mr Eddy: You said it's a planning board that's organized for all of Manitoulin Island.

The Chair: In the district of Manitoulin, the planning board encompasses all the organized municipalities, with the exception of Rutherford and George, plus four or five unorganized territories or townships where the planning board does exercise minister's orders.

Mr Michael Lyle: My name is Michael Lyle. I'm legal counsel with the Ministry of Housing. As I understand it, the provision was drafted in such a way that it wasn't intended to be able to delegate the power to a planning board. Your suggestion is to change that to make reference to a body or board.

Mr Wessenger: Yes. What would be the appropriate language that would give the minister that discretion to delegate it?

Mr Lyle: I would prefer to have some opportunity to look at the Municipal Act so I could be sure what the appropriate term is.

Mr Wessenger: Should we stand this one down?

The Chair: I'm just interested in getting it right, that's all.

Mr Wessenger: I think we should get it right.

The Chair: Is there consent to stand this amendment down? Agreed.

I believe all members now have a copy of Mr Wessenger's motion regarding subsection 16(2). Can we now deal with subsection 16(2)? Agreed.

Mr Wessenger: I move that subsection 16(2) of the bill be struck out and the following substituted:

"(2) The definition of 'rental property' in section 1 of the act is repealed and the following substituted:

"'rental property' means,

"(a) a building or related group of buildings in which one or more rental units are located,

"(b) a mobile home park in which two or more rental units are located, or

"(c) a land lease community in which two or more rental units are located,

"and includes all common areas and services and facilities available for the use of its residents, but does not include a condominium.

"(2.1) On the day subsection 27(2) of the Residents' Rights Act, 1994 comes into force or on the day this act comes into force, whichever is later, the definition of 'rental property' in section 1 of the act is repealed and the following substituted:

"'rental property' means

"(a) a building or related group of buildings in which one or more rental units are located,

"(b) a mobile home park in which two or more rental units are located, or

"(c) a land lease community in which two or more rental units are located,

"and includes all common areas and services and facilities available for the use of its residents, but does not include

"(d) a condominium;

"(e) accommodation that is subject to the Public Hospitals Act, the Private Hospitals Act, the Community Psychiatric Hospitals Act, the Mental Hospitals Act, the Homes for Special Care Act, the Homes for the Aged and Rest Homes Act, the Homes for Retarded Persons Act, the Nursing Homes Act, the Correctional Services Act, the Charitable Institutions Act, the Child and Family Services Act or the Developmental Services Act, or

"(f) accommodation occupied by a person solely for the purpose of receiving rehabilitative or therapeutic services agreed upon by the person and the provider of the accommodation, where,

“(i) the parties have agreed that,

“(A) the period of occupancy will be of a specified duration, or

“(B) the occupancy will terminate when the objectives of the services have been met or will not be met, and

“(ii) the average length of the occupancy of the occupants of the building in which the accommodation is located does not exceed six months or such lesser time period as the regulations made under this act prescribe.”

The purpose of this amendment is to make it coincide with the amendment that's already been passed and Bill 120.

The Chair: Perhaps you could be a little clearer for the Chair. I'm not exactly sure what you're saying.

Mr Wessenger: We're incorporating into the definition, as set out in Bill 120, a “mobile home park” and a “land lease community.” You see, they're not in that act.

The Chair: So does this place them in that act?

Mr Wessenger: Yes, this places them in that act.

Ms Sibylle Filion: We have presently in front of the House two bills dealing with the same subject matter. We don't know which one will come into force first. This provides for the inclusion in the Rental Housing Protection Act of land-lease communities within the definition of “rental property.” Second, if this bill were to come into force after Bill 120 does, it also includes all the amendments brought in by Bill 120 into the definition of “rental property.” It brings both acts in line, one with the other.

The Chair: So this would permit in land-lease communities accessory apartments as of right.

Mr Wessenger: No, it has absolutely nothing to do with that at all, absolutely nothing.

The Chair: Now I understand, I think.

1130

Mr Eddy: As a follow-up to the previous speaker, shouldn't we know which one should come into force first, then decide that?

Ms Filion: As a general rule, it's always dangerous to refer to bills in other bills. However, Bill 120 has now received third reading just this week and it's a fairly sure deal. It comes into force upon proclamation. We just want to make sure that whichever occurs first, they both represent the law at the time the bill comes into force.

Mr Eddy: Then why can't we decide when proclamation will be? It will be proclaimed.

Ms Filion: Unfortunately, that's a power given to the Lieutenant Governor in Council.

Mr Wessenger: It's beyond my power.

Mr Eddy: There are many things beyond myself, so I understand.

The Chair: Further questions or comments on the amendment to subsection 16(2)? Shall Mr Wessenger's amendment to subsection 16(2) carry? Carried.

Interjection.

The Chair: Shall we stand down section 16? Agreed. Section 17: You have an amendment, Mr Wessenger.

Mr Wessenger: Yes, we have another amendment that will have to be given to the clerk.

The Chair: Ah, we have a new amendment to section 17. Perhaps, Mr Wessenger, you could read your proposed amendment while Mr Carrozza gets some copies.

Mr Wessenger: I move that section 17 of the bill be struck out and the following substituted:

“17(1) Section 2 of the act is repealed and the following substituted:

“Application of Act

“2(1) Despite any act or agreement to the contrary, this act applies to,

“(a) any rental property comprised of a building or a related group of buildings situated in any municipality in Ontario except municipalities that are exempted by the regulation; and

“(b) all rental properties that are land lease communities or mobile home parks.

“Same

“(2) Despite subsection (1) and any regulation exempting a municipality from this act, this act applies to rental property situated in any municipality in Ontario in respect of,

“(a) a proposed conversion to a cooperative or a condominium; and

“(b) a proposed conversion, demolition, renovation or repair of a place that is prescribed by regulation.

“(2) On the day section 28 of the Residents Rights Act, 1994 comes into force or on the day this act comes into force, whichever is later, section 2 of the act is repealed and the following substituted:

“Application of Act

“2(1) Despite any act or agreement to the contrary, this act applies to,

“(a) any rental property comprised of a building or a related group of buildings situated in any municipality in Ontario except municipalities that are exempted by the regulation; and

“(b) all rental properties that are land lease communities or mobile home parks.

“Same

“(2) Despite subsection (1) and any regulation exempting a municipality from this act, this act applies to rental property situate in any municipality in Ontario in respect of,

“(a) a proposed conversion of,

“(i) rental property to a cooperative or condominium,

“(ii) a care home to use as a hotel, motel, tourist home, inn or apartment hotel, or to any use for a purpose other than rental property, or

“(iii) a care home to use as any other rental property;

“(b) a proposed demolition of a care home; or

“(c) a proposed renovation or repair of a care home if,

“(i) a tenant is in possession of a rental unit in the care home and vacant possession would be required, or

“(ii) the proposed repair or renovation is to a vacant rental unit in the care home and is so extensive that

vacant possession of the unit would be required if it were occupied.

"Same, severance approval

"(3) Despite subsection (1), section 5 applies to all care homes located in Ontario."

I believe the reasons given by the legislative counsel with respect to the previous amendment apply the same to this one.

The Chair: We can either stand this down until all members have a copy or we can just wait for a few minutes.

Mr Wessenger: Let's just wait.

The Chair: How be we take five?

Mr Wessenger: I think it would be good to take five.

The Chair: We will reconvene at 20 minutes to 12.

The committee recessed from 1136 to 1148.

The Chair: The standing committee will reconvene.

Mr Wessenger: Could we further stand down the motion we're dealing with—there are some technical problems—and just move on to 18?

The Chair: Mr Wessenger has asked that we stand down the amendment he has just placed. Agreed? Agreed.

Mr Wessenger: With respect to 18, I will be recommending that we vote against it because it's redundant. It has already been covered in previous amendments.

The Chair: Further questions, comments or amendments to section 18? All in favour? No.

Section 18 is lost and deleted.

Section 19.

Mr Wessenger: I move that section 19 of the bill be struck out and the following substituted:

"19. Section 4 of the act is amended by adding the following subsections:

"(1.1) Subsection (1) does not apply so as to require the approval of the council of the municipality if,

"(a) the rental property is not a building or a related group of buildings in which one or more rental units are located; and

"(b) the demolition, conversion, renovation or repair of the rental property was commenced before the day the Land Lease Statute Law Amendment Act, 1993 received royal assent.

"(1.2) No infrastructure or part of an infrastructure in a rental property which is a land lease community or mobile home park shall be,

"(a) permanently removed; or

"(b) renovated or repaired if,

"(i) a tenant is in possession of a rental unit and vacant possession of the rental unit would be required, or

"(ii) the repair or renovation is so extensive that if any vacant rental unit affected by the repair or renovation were occupied, vacant possession would be required,

"by any person unless the council of the municipality in which the property is situate approves the removal, renovation or repair.

"(2.1) Clause (1)(b) does not apply so as to require the

approval of the council of the municipality for the removal of a leased mobile home from the rental property that is the site for the mobile home, if the person who removes the leased mobile home is the tenant of the site and of the leased mobile home, whether or not the mobile home and the site are owned by the same person."

Basically what this amendment does is add a specific prohibition on the removal of infrastructure under the activities that the act prohibits without municipal approval. It also makes the application of the act in mobile home parks and land-lease communities come into effect on the day of royal assent. It makes sure this only applies when royal assent is obtained.

The Chair: Questions or comments?

Shall Mr Wessenger's amendment to section 19 carry? Carried.

Section 20.

Mr Wessenger: I'll be recommending we vote against section 20. This is again something that was unnecessary.

The Chair: Questions or comments regarding section 20? Shall section 20 carry? No.

The section is lost.

Mr Eddy: This bill is going to be a lot shorter.

Mr Wessenger: That's right, it will be a lot shorter.

The Chair: Section 21.

Mr Wessenger: I move that section 21 of the bill be struck out and the following substituted:

"21(1) Subsection 9(1) of the act is amended by inserting after '4(1)' in the fifth line 'or (1.2).'

"(2) Subsection 9(3) of the act is amended by inserting after '4(1)' in the ninth line 'or (1.2).'

"(3) Section 9 of the act is amended by adding the following subsection:

"Same

"(4) Despite section 113 of the Landlord and Tenant Act, no order for a writ of possession of a rental unit in a land lease community or in a mobile home park shall be issued in respect of the ground set out in section 105 of that act, even if the notice of termination was given or application made for a writ of possession before the day the Land Lease Statute Law Amendment Act, 1993 receives royal assent, unless the approval of the council of the municipality under subsection 4(1) or (1.2) of this act has been obtained, where such approval is required."

Basically this changes the aspect with respect to retroactivity to ensure that existing court orders will be respected as a final determination.

The Chair: Questions or comments on Mr Wessenger's amendment to section 21? Oh, the Chair is getting ahead of himself. This is out of order because subsection 9(1) is not open in the bill. I would therefore have to ask for unanimous consent to permit this amendment. Agreed? Agreed.

Mr Arnott: Why is it out of order?

The Chair: Because under the bill as presented, subsection 9(1) is not open, so we need consent.

Mr Arnott: All right, agreed.

The Chair: Questions or comments regarding Mr Wessenger's amendment? Shall Mr Wessenger's amendment to section 21 carry? Carried.

I think perhaps we've done a good morning's work.

Mr Wessenger: I think we have done a great morning's work. Thank you, Mr Chair. I think you also wanted not to sit this afternoon. Is that correct?

The Chair: Yes, that's my suggestion.

Mr Wessenger: Unless you want to come back for 20 minutes. In 20 minutes we could finish the technical matters, if people wish, then we wouldn't have to sit on the—

The Chair: It won't take all that long to do it in the next time we sit.

Mr Wessenger: No, it wouldn't, so why don't we?

Mr Arnott: For clarification, which sections have been stood down? I just want to get a quick summary of those.

The Chair: The clerk may be able to give you a quick list.

Clerk of the Committee: We have a new section, section 10.1, stood down, and section 11 stood down. We

have a subsection in section 16 stood down, which is subsection 16(5). Then we have section 17 stood down, and that is all.

Mr Arnott: Just to get further clarification, where do we go from here?

The Chair: The committee will reconvene Thursday morning, June 2, to continue clause-by-clause consideration of Bill 21.

Mr Arnott: And Mr Wessenger plans to meet with some of the interested parties prior to that.

Mr Wessenger: What we can do is finish the technical aspects off on June 2, and then we are going to meet on June 7.

Mr Arnott: That will be done in the formal committee.

Mr Wessenger: We'll finish off in formal committee, and then we'll have a meeting on June 9 where we'll deal with the substantive outstanding matters.

The Chair: The committee will stand in adjournment until Thursday morning, June 2, at 10 am.

The committee adjourned at 1158.

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STANDING COMMITTEE ON GENERAL GOVERNMENT

***Chair / Président:** Brown, Michael A. (Algoma-Manitoulin L)

Vice-Chair / Vice-Président: Daigeler, Hans (Nepean L)

***Arnott, Ted** (Wellington PC)

Dadamo, George (Windsor-Sandwich ND)

Grandmaître, Bernard (Ottawa East/-Est L)

Johnson, David (Don Mills PC)

Mammoliti, George (Yorkview ND)

***Mills, Gordon** (Durham East/-Est ND)

Morrow, Mark (Wentworth East/-Est ND)

***Sorbara, Gregory S.** (York Centre L)

***Wessenger, Paul** (Simcoe Centre ND)

***White, Drummond** (Durham Centre ND)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Carter, Jenny (Peterborough ND) for Mr Dadamo

Eddy, Ron (Brant-Haldimand L) for Mr Daigeler

Hansen, Ron (Lincoln ND) for Mr Mammoliti

Mathysen, Irene (Middlesex ND) for Mr Morrow

Also taking part / Autres participants et participantes:

Ministry of Housing:

Lyle, Michael, legal counsel

Morris, Noah, policy adviser, existing housing stock, housing policy branch

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Filion, Sibylle, legislative counsel

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Third Session, 35th Parliament

**Assemblée législative
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Troisième session, 35^e législature

**Official Report
of Debates
(Hansard)**

Thursday 2 June 1994

**Journal
des débats
(Hansard)**

Jeudi 2 juin 1994

**Standing committee on
general government**

Land Lease Statute Law
Amendment Act, 1993

**Comité permanent des
affaires gouvernementales**

Loi de 1993 modifiant des lois
en ce qui concerne les terrains à bail

Chair: Michael A. Brown
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Thursday 2 June 1994

Jeudi 2 juin 1994

The committee met at 1013 in room 228.

LAND LEASE STATUTE LAW
AMENDMENT ACT, 1993LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE LES TERRAINS À BAIL

Consideration of Bill 21, An Act to amend certain Acts with respect to Land Leases / Projet de loi 21, Loi modifiant certaines lois en ce qui concerne les terrains à bail.

The Chair (Mr Michael A. Brown): The purpose of the committee meeting this morning is to deal with Bill 21, standing in the name of Mr Wessenger. I'm informed, Mr Mills, that you will be carrying the bill on Mr Wessenger's behalf this morning.

Mr Gordon Mills (Durham East): That's correct; Mr Wessenger's in Kingston.

Mrs Margaret Marland (Mississauga South): On a point of order, Mr Chair: The last meeting was on Thursday, May 19. I was not able to be at that meeting. However, I did attend a meeting of the subcommittee which took place, I think, on Tuesday the 15th. At that meeting, there was majority agreement on that subcommittee that this committee would not proceed with Bill 21 until after we had had a meeting which Mr Wessenger was organizing with all the parties of interest to the bill.

The Chair: Precisely what is the point of order?

Mrs Marland: The point of order is, why are we proceeding? I see us proceeding as being out of order. Mr Wessenger has set up this meeting for next Tuesday, June 8. That date was discussed by Mr Wessenger at the subcommittee meeting on May 15. Frankly, I think it's out of order to proceed with the bill and to have proceeded on the 19th, when there was a majority agreement that we would wait until we had met with all the stakeholders to the bill.

Obviously, there are a number of issues surrounding this bill from a number of different interests. The idea of having the meeting was in order that there could be a compromise reached in order that the bill could proceed. I just don't understand why the bill is proceeding and the meeting is still to be held next Tuesday. I think proceeding with the bill is out of order, with the commitment that the proponent of the bill has made to those people who are coming to the meeting next Tuesday.

The Chair: Thank you, Mrs Marland. Everything is in order. On Thursday, two weeks ago, whatever that date happened to be, the committee rejected the subcommittee's report by a vote of the committee. As you know, that's an option of the committee, to ratify or not a subcommittee report. We are proceeding under a motion that

was passed by this committee that Mr Wessenger made, so there is nothing out of order.

Mrs Marland: Did Mr Wessenger come in and make a motion to proceed?

The Chair: If you would review the Hansard and maybe speak to your colleague who was here, you would find that Mr Wessenger made a motion at committee that was carried by the committee, and we are proceeding.

Mr Ted Arnott (Wellington): Which the opposition voted against.

Mrs Marland: Did the committee vote on the subcommittee report?

The Chair: The committee voted on the subcommittee report in the contrary, against the subcommittee report, which is the right of the committee, so there is nothing out of order.

Mr Bernard Grandmaître (Ottawa East): To follow up on what Mrs Marland was saying, a meeting of all concerned parties was supposed to take place and will take place, I'm told, so I agree with Mrs Marland that if Mr Mills or Mr Wessenger wasn't able to meet with these concerned groups prior to this meeting this morning, what is the use of meeting to consider this bill?

The Chair: Thank you for that. Mrs Mathyssen on the same point.

Mrs Irene Mathyssen (Middlesex): I'd like to point out at this point in time that the meeting to which Mrs Marland refers did indeed take place on May 16 and that all people were given ample notice. M. Grandmaître was at that meeting, and there was very fruitful and positive discussion. I know Mrs Marland was given notice of that meeting, an opportunity to attend. Nevertheless, there was very fruitful and positive discussion at that meeting, as I said, and a decision was made to have a second meeting so that Mrs Marland could indeed attend.

Mrs Marland: Was Mr Wessenger given notice of today's meeting so that he could attend?

Mrs Mathyssen: Mr Chair, do I have the floor?

The Chair: Order. Mrs Mathyssen, yes.

Mrs Mathyssen: Thank you. In light of the fact that this meeting occurred, there will be a second meeting. In light of the fact that the committee duly voted on the subcommittee report, I think it's important that we proceed with this very important piece of legislation. As you well know, Mr Chair, there are a number of very vulnerable seniors in Ontario waiting anxiously for this piece of legislation and I think it's important that we live up to our obligations to them and move ahead.

The Chair: Mr Arnott?

Mr Arnott: Yes. I agree we have to meet our obligations as members as well as our obligation to be honourable members.

I believe Mr Wessenger's commitment, to my recollection, and I haven't got the Hansard so I may be corrected on this, was that the member agreed to stand down what he viewed as the controversial aspects, subsection 10(1), section 11, subsection 16(5) and section 17, until such time as he would have an opportunity and the committee would have an opportunity to discuss the issue with all the interested parties.

That was the commitment; that's my recollection. It would appear that if indeed, Mr Chairman, we're not out of order, we're walking away from order.

The Chair: We're not out of order.

1020

Mr Arnott: The amendment was made by the member who was introducing the bill, if I'm not mistaken.

The Chair: Mr Mills, on a non-point of order.

Mr Mills: I think that in the last meeting we had we all agreed to proceed carefully with this bill on all aspects that were non-controversial. There was a commitment made by Mr Wessenger that the controversial aspects of this bill would be set aside. That still remains in force and I intend to honour that commitment of Mr Wessenger.

What we're going to do today, hopefully—we moved along last week in great strides—is to continue to go ahead with the non-controversial points in this bill. The controversial points are set down and we're going to revisit them, I think, on June 7, when we're going to have people in to discuss this. We're not intending to go ahead with the controversial aspects of this bill today, notwithstanding the fact that people haven't had an opportunity to speak.

The Chair: Mrs Marland, with a final word.

Mrs Marland: A few moments ago, Mrs Mathysen referred to a meeting that I had been given notice of and had ample opportunity to attend. Could you identify which meeting you're referring to?

Mrs Mathysen: That was the May 16 meeting, Mrs Marland. In point of fact, we waited for you to arrive, but for whatever reason, you weren't able to attend.

Mrs Marland: Can you identify it?

Mr Mills: Last Thursday.

Mrs Mathysen: No.

Mr Mills: Was it Monday?

Mrs Mathysen: Previously. It was a Monday morning meeting.

Mr Mills: Oh, Monday.

Mrs Mathysen: Yes. Remember, it had been arranged well in advance. We'd been discussing it for quite some time.

Mrs Marland: All right. I'm very glad you clarified that, because it's very important for me to clarify for you that that meeting on the Monday—what was the date on the Monday? Was it the 15th?

Mrs Mathysen: It was the 16th.

Mrs Marland: All right, Monday the 16th. Mr Wessenger and Mr Grandmaitre and I were in a subcommittee meeting on Monday, May 2, at which time there was agreement that there would be a meeting held with all the stakeholders for this bill. On Tuesday, May 3, his staff started to phone everyone, except the members, to invite them to a meeting.

I'm sorry Mr Wessenger isn't here because there is no denial on his part of these facts. I think it's very unfortunate, Mrs Mathysen, that you don't know those facts, because the facts are that the first time I knew about the Monday meeting, the 16th, was on the Thursday preceding. I was the last person to be invited to attend that meeting of all the stakeholders.

As soon as my office was called on the Thursday, I called Mr Wessenger. I spoke to Mr Wessenger directly and told him that with two days' notice I was not available on the Monday.

Obviously, since you are not interested in listening, you're not interested in the facts. Perhaps the next time you wish to make a comment on whether or not I was there—and for you to say that you in fact were waiting for me to attend when Mr Wessenger—was Mr Wessenger at the meeting on the 16th?

Mrs Mathysen: Do you want me to respond, Mr Chair?

The Chair: I believe I have ruled on the point of order and I've permitted an extreme amount of flexibility in providing for some comments. I think we should go to the bill, having not heard a motion to the contrary.

Mrs Marland: Mr Chairman, with respect, I will take a point of privilege to respond to statements made by Mrs Mathysen, and I have a right to do that.

The Chair: I'm sorry, in committee we cannot deal with points of privilege.

Mrs Marland: All right, a point of order then.

The fact is that Mr Wessenger knew as of Thursday that I could not attend the meeting on the Monday. The fact that everyone else was invited to that meeting, their time schedules checked and rechecked, and I was the last person to be notified of that meeting—for Mrs Mathysen to tell this committee this morning that they waited for me is outright misrepresentation. Mr Wessenger knew I was not coming. I spoke to Mr Wessenger Thursday, Friday and Saturday morning at his home. We discussed the fact that that meeting should be cancelled because neither Mr Cordiano, as the Housing critic for the Liberals, nor myself were able to attend.

In willingness, I may add, this is a private member's bill. There was no obligation on us to attend any of those meetings except that Mr Grandmaitre, representing his caucus, was as sincere as I was in saying: "Let's get everybody in the same room together. Let's hear what everybody has to say on all sides of this bill, and if we can massage it into something that can be successful and be passed, then Mr Wessenger gets what he wants." That's what Mr Wessenger wanted to do.

I say on oath that his words to me were: "I could have handled this much better. You're absolutely right, Mrs

Marland. You should have been the first person called to find a convenient date. I didn't realize you had not been called. It has not been handled properly." Those are Mr Wessenger's words.

Mr Chairman, I would ask Mrs Mathysen to inform herself of facts before she tries to relay them either to this committee or in her lovely letters to the press.

Mrs Mathysen: I would say to Mrs Marland that I am very pleased she is willing and sincere and looking forward to having a successful piece of legislation go forward, because it is most certainly important and very appreciated by the members of my community.

The Chair: Section 22: Questions, comments or amendments to section 22.

Mr Mills: I want to go back to subsection 16(2) of the bill. I have an amendment.

Mrs Marland: On a point of order, Mr Chair: I have some amendments to place.

The Chair: Wait a minute.

Clerk of the Committee (Mr Franco Carrozza): Section 16 was stood down. It's not been carried for this particular reason, because they want to discuss this amendment.

Mr Grandmaitre: What section?

Mr Mills: Subsection 16(2).

The Chair: We would need unanimous consent to revert to—

Mr Mills: No, we don't. My understanding from legal counsel is we don't, Mr Chair. I'd just like to get that piece cleared up, and then we go on to 22.

The Chair: Mr Mills, the normal procedure is to go through the entire bill and then come back to the stood-down sections. Now, with unanimous consent, we can go back there right away. If you would like to ask for that, that's quite possible.

Mr Arnott: No.

The Chair: No. That's fine. Section 22.

Mr Mills: I move that section 22 of the bill be struck out and the following substituted:

"22(1) Subsection 10(1) of the act is amended by inserting after '4(1)' in the fifth line 'or (1.2).'"

"(2) Subsection 10(3) of the act is amended by inserting after '4(1)' in the ninth line 'or (1.2).'"

"(3) Section 10 of the act is amended by adding the following subsection:

"Same

"(4) Despite section 113 of the Landlord and Tenant Act, no order for a writ of possession of a rental unit in a land lease community or in a mobile home park shall be issued in respect of the ground set out in section 103 of that act, even if the notice of termination was given or application made for a writ of possession before the day the Land Lease Statute Law Amendment Act, 1993 receives royal assent, unless the approval of the council of the municipality under subsection 4(1) or (1.2) of this act has been obtained, where such approval is required."

Mr Chairman, this is the same as the previous section with a technical amendment in regard to retroactivity.

Mr Hans Daigeler (Nepean): I have to back up a little bit, frankly. In between sessions was the last time I looked at this dossier. When I looked at it last, I was so totally confused that I was not very optimistic about the future of this bill.

The biggest confusion I had at the time was that I was not clear whether this bill had the support of the Ministry of Housing. Given the nature, the substance and the importance of this bill—I don't deny that; it's a significant issue. But because it is a significant issue, I want to be assured that the Ministry of Housing, which has the responsibility for this area, is satisfied with this project and with the amendments. It's becoming so complicated and so convoluted that I want some assurance from the Ministry of Housing that they still support the bill here and they support the amendments that are being put forward.

1030

I'm just wondering whether someone on the government side or anybody from the Ministry of Housing who can authoritatively say, yes, the minister supports this project and is prepared to put her weight behind this bill.

Mrs Mathysen: I would like to assure Mr Daigeler that the Minister of Housing and the Ministry of Housing are indeed supportive of this bill and certainly want to see it move ahead because of its importance.

Mr Daigeler: I must say that's a lot clearer than the Ministry of Housing was prepared to say the last time around, but I'm pleased to hear that.

Mrs Mathysen: Well, I'm absolutely cutting to the chase, Mr Daigeler.

Mrs Marland: Mr Chairman, is Mrs Mathysen parliamentary assistant to the Minister of Housing?

The Chair: You might want to ask Mrs Mathysen.

Mrs Marland: I'll ask her through the Chair.

Mrs Mathysen: Mr Chair, I am indeed the parliamentary assistant to the Minister of Environment and Energy, but by virtue of the fact that these are significant pieces of legislation, I make an effort to be in touch with all things going on in our government and certainly have spoken at length with the Minister of Housing in regard to this bill. I've in reality been working on this problem since September 7, 1990, so I certainly have every reason to be in close communication with the Minister of Housing in this regard.

Mrs Marland: Mr Chairman, is there a policy adviser in the room, or any other staff member of the Ministry of Housing?

Mr Drummond White (Durham Centre): That's not the job of the Chairman.

Mrs Marland: You've just sat down. Did you just arrive and wake up, Mr White? Really. The Chairman knows his job.

The Chair: Mrs Marland, ignore the interjections.

Mr Mills: On a point of order, Mr Chairman: Is Mrs Marland trying to establish the commitment of the Ministry of Housing? Is that what you're trying to do?

Mrs Marland: No. I'm asking, when we deal with—
Interjections.

The Chair: Can we have some order, please.

Mrs Marland: You see, when we deal with government legislation, we have the resources of ministry staff. When we're dealing with a private member's bill, we may also have the resources of ministry staff. In fact earlier we did have, both in the public hearings and at the beginning of this bill, ministry staff who came and sat here, as you will recall, Mr Mills, to answer questions.

I'm simply asking the Chairman if ministry staff are here in the room this morning and, if so, I would like them to come to the front to answer a question.

Mr Mills: On a point of order, Mr Chairman: I think it fair to say that ministry staff are here present, but this is a private member's bill and they're not here to represent the minister on this bill. They're here to answer some questions that I might have around the technicalities of some of this, and that should be made clear. As such, I beg to offer this opinion that they're not subject to appearing at the table in any cross-examination. This is a private member's bill. This is Mr Wessenger's bill, and that is it.

Mrs Marland: Mr Chairman, as you know, we have been able to talk to the ministry staff until today. If Mr Wessenger is saying that—

Mr Mills: I'm saying.

Mrs Marland: Yes, but you're speaking for Mr Wessenger today, are you not?

Mr White: He's speaking for Mr Mills.

Mrs Marland: If Mr Mills is saying I cannot ask ministry staff a question, then you're going to have to be very clear about this, because I'm going to place a resolution requesting that, and if you want to vote against it in a recorded vote, then I'll tell you—

The Chair: Through the Chair, Mrs Marland.

Mrs Marland: —Mr Chairman, I will say where we are headed, and I would hate us to go down that slippery slope. We have been able to ask the ministry staff questions up until today, and my request, Mr Chairman, is that the ministry staff who are in the room come forward so that I may ask them a question.

Mr Mills: On a point of order, Mr Chair: Mrs Marland, I'm going to say it once and this is the last time I'm going to say it. This is a private member's bill. The Ministry of Housing staff are here; they're not here to appear before this committee. If you want some sort of evaluation of the support of the Ministry of Housing, look back in Hansard. Last year I stood and asked the Minister of Housing about this bill, about this issue, because it's very dear to my heart and to my riding and it has been on my agenda since 1990—

Mrs Marland: So how come you can ask the Ministry of Housing a question and I can't?

Mr Mills: —and the honourable minister stood in her place and said unequivocally that she and her ministry support this legislation. But that doesn't mean that you can get ministry staff up here to grill them, because this is a private member's bill and that's it.

Mr Arnott: On the same point of order, Mr Chairman: Mr Mills makes a passionate plea to have this

committee proceed with this bill and hopefully go back to the House, I assume is his position.

Mr Mills: We were going along lovely last week.

Mr Arnott: Right, and I have the floor at the moment, Mr Chairman. He's suggesting that this bill is in the public interest obviously; that's implicit in his argument. If the member who is responsible for bringing forward the bill this morning has access to technical information through the ministry staff, we're simply saying that, as an opposition caucus, we would like to avail ourselves of the same opportunity to ask technical questions of the ministry staff. If he wants to answer the political questions, we'd be happy to have him answer them.

The Chair: I haven't heard a point of order yet, but Mrs Marland has the floor.

Mrs Marland: Mr Chairman, I would like the ministry staff to come to the table in order that I could ask them a question.

The Chair: Mrs Marland, in my experience as committee Chair—and we are treading on relatively new ground, at least from my perspective—the normal place to ask a question is of the proponent of a bill. We may then, if you don't get a satisfactory answer for the committee, ask someone from a ministry to give us some technical assistance.

I would suggest to you that the way to do this is to place the question and, if you don't get a satisfactory answer, perhaps the ministry could be of some further assistance. But that's something we could decide after we hear the question.

Mrs Marland: Mr Chairman, according to the printed bill that I have, the proponent of the bill is one Mr Wessenger. Perhaps I could ask where the proponent of the bill is this morning.

The Chair: We established that Mr Mills was carrying the bill.

1040

Mr Mills: I'd be glad to do that, Mr Chair. Mr Wessenger, believe you me, would give his right arm to be here this morning. Unfortunately he's the parliamentary assistant to the Minister of Health. He's representing the minister at a hospital conference in Kingston and he can't be here. That's why I'm acting in his stead.

I want to reaffirm that it's a private member's bill and I am not going to permit staff from the Ministry of Housing, who have given advice on this bill to Mr Wessenger, to appear before this committee and be grilled by Mrs Marland.

The Chair: I have a number of members still on the list. I would remind members that we are attempting to speak to Mr Mills's amendment to section 22. Mrs Marland, do you have a question concerning Mr Mills's amendment to section 22?

Mrs Marland: I do have a question. I think probably Mr Grandmaître and I are the members of this committee who have served almost a decade in this House. I have never taken part in a debate of a private member's bill without the private member being there, and if that is the situation this morning, that Mr Wessenger is not able to

be present as the proponent of his bill, I think we should adjourn this meeting until he can be present.

Mr Arnott: Agreed.

The Chair: Do I hear a motion for adjournment?

Mrs Marland: Before I make the motion, I would like to ask—

The Chair: So you're not making the motion for adjournment, fine.

Mrs Marland: No. Before I make that motion, I would like to ask the clerk if there is anything in our procedural bylaws about the process of private members' business once it has been referred to a committee. Can you quote a precedent where the proponent of a private member's bill is not present at the committee hearings?

The Chair: Mrs Marland, as the Chair, I can answer that we aren't familiar with the tradition and would have to look up any precedents that might exist within this place regarding private members' business and whether or not a proponent was always in the room while it was being considered.

Mrs Marland: You see, Mr Chair, I'm being put in a difficult position. I cannot ask questions of the proponent. The bill stands in the name of Mr Wessinger. The amendments stand in the name of Mr Wessinger. I cannot ask ministry staff questions because I'm being told it's a private member's bill. Yet at the other meetings we have been able to ask ministry staff questions.

The Chair: Could we return this conversation to a debate on Mr Mills's amendment, please?

Mrs Marland: Mr Chairman, in the absence of the member whose private member's business we are discussing this morning, I would move adjournment of this meeting.

The Chair: Mrs Marland has moved adjournment of this morning's meeting.

Mrs Marland: A recorded vote.

The Chair: A recorded vote has been requested. All in favour?

Ayes

Arnott, Daigeler, Grandmaître, Marland.

The Chair: All those opposed?

Nays

Carter, Cooper, Mathyssen, Mills, White.

The Chair: The motion is lost.

I have Mr Mills and then Mr White.

Mr Mills: It's been so long since I asked to speak, I've sort of lost track of what I was going to say, except that this motion before you is very simplistic in nature. It's a technical change. It deals with retroactivity. I must say, last week, notwithstanding that we had good rapport here, we were able to gallop along and I think we passed most of the technical amendments, which are the only type of amendment that I propose introducing before this committee this morning. There's absolutely nothing of a controversial nature.

How anyone has great difficulty in agreeing to amendments of a purely technical nature that have absolutely no problems that I see for continued debate or awkwardness

or whatever you want to call it—I would hope we can proceed through these technical amendments and come to grips with the more controversial amendments at the meeting that's scheduled when proponents interested in this bill will be here. Having said that, thank you.

Mr White: My comments were in regard to the earlier issue in regard to this being a private member's bill. Yesterday morning I was in committee, and private members' bills do not have to have the member proposing them physically present.

Mr Mills: That's right.

Mr White: That was certainly the case yesterday morning and it has certainly been the case for the last three years.

Mr Mills: They rarely are there.

Mr White: I know that in my riding this bill is very important and the people in my riding are very concerned that this process is holding up a bill which is essential to the safety of their community, to the safety of their tenancy and their homes. To be posturing forth with issues that are totally irrelevant to the bill I find very, very difficult.

Mr Grandmaître: I think Mr White is absolutely right. In the private members' bills committee the proponent doesn't have to be present, but this is the general government committee. We don't deal with private members' bills the same way as we do in this committee as they do in the private members' committee.

This is why, in defence of Mrs Marland's question, we're wanting to ask the Ministry of Housing a few questions simply to clarify the amendment that's before us to better understand the feeling of the Ministry of Housing. I think it's a very legitimate question: How come this general government committee cannot ask questions to staff from the Ministry of Housing? This is not a private members' bills committee. This is general government and we should have access to all the information so that we can make the right decision.

The Chair: Thank you. Mrs Marland, to discuss Mr Mills's amendment to section 22.

Mrs Marland: I guess Mr Mills's amendment affects the bill overall, so I would be entitled to make a comment on the amendment as it affects the bill overall.

I'm looking at a letter here dated February 16, 1994, on the letterhead of one Larry O'Connor, MPP, Durham-York. This is a letter to this committee, so in essence it's a letter to me as a member of this committee. It says in the letter:

"I am writing to the standing committee on general government in regards to the hearings currently being held on Bill 21 (the Land Lease Statute Law Amendment Act). Although my schedule has not permitted me to make a formal presentation, I would like to express my total support for this legislation.

"As members of the Legislature, you will be aware that I have presented numerous petitions on the issue of owner-owned homes on leased lots. It was brought to my attention some time ago that owners of homes in mobile home trailer parks and modular homes in leased-land communities need greater protection. I have been

involved with groups from my constituency such as the Ontario Owned-Home Leased-Lot Federation at Sutton-by-the-Lake, and I am in complete sympathy with their concerns.

"If you require further details on my constituents' situations and the priorities that they consider should be addressed by the legislation, please do not hesitate to contact me."

1050

My concern is that the amendment on the floor does not address the concerns that Mr O'Connor is raising because Mr O'Connor is referring to the Ontario Owned-Home Leased-Lot Federation. I have before me a submission to this committee from the Ontario Owned-Home Leased-Lot Federation, which was made by M. Phyllis Baker on February 16, which ironically is the same date of the letter of MPP Larry O'Connor.

In this presentation to the committee, this organization that he supports says, "The term 'land-lease community/land-lease community home' as a housing category is acceptable and is considered to be a forward step. Preference is still generally for the designation 'Planned retirement community' for persons aged 55 and over."

Also, under the Rental Housing Protection Act, in the same presentation, it says, "The proposed changes are acceptable but will require further study by members of the federation." And another comment, on page 4 of 6—I should have said that the first comment was on page 1. The comment I've just read was on page 3 of 6, and on page 4 of 6, in this brief, "We believe that planned retirement communities, called land-lease communities, are an acceptable form of housing for persons over the age of 55."

On page 5 of 6, "If seniors are to live in a safe, secure and supportive environment, every attempt should be made to make that environment as stress-free as possible."

We know that the proponent of the bill and the mover of this amendment are members of the New Democratic Party government, which does not support seniors-only communities. When we look at the amendment that's on the floor now and look at Mr O'Connor's letter, where he says he is in sympathy with the Ontario Owned-Home Leased-Lot Federation, and look at the wording in their brief, we see in fact that they're asking that there be a designation for a planned retirement community. So what they're looking for is obviously two acts: one dealing with land-lease communities and one dealing with the balance.

I think that government members on this committee might just like to show some respect to Mr O'Connor and the representation that he is making on behalf of those constituencies that he represents. I'm wondering whether Mr Mills is familiar with Mr O'Connor's concerns. I would ask him to comment on that.

Mr Mills: What we have before us this morning is merely a technical amendment, as it deals with retroactivity. I'm not going to sit here and prolong this issue as we did in the previous appearance. This doesn't relate to any other part of this legislation, Mr Chairman,

and I'm going to ask that the question be called. I'm getting fed up with all this mumbo-jumbo. We know what the game plan is. I know what the game plan is and I am not going to sit here and allow that to unfold until midday. Last week, we joggled right along nicely. They were all technical amendments. There was absolutely no problem. The member for Mississauga South appears on the scene today and is deliberately thwarting passage of Bill 21, and that was her policy in the other hearings. So I'm going to say, let's have the question.

The Chair: Are you certain you want to do that? It may not be in your interests to do that.

Mr Mills: Well, maybe. I'm getting frustrated. You can understand my high degree of frustration.

The Chair: It's not my place to give you advice, but procedurally you would lose this amendment and we would vote on the basic section.

Mrs Mathysen: We want to vote on this one.

Clerk of the Committee: No, you lose it.

Mr Mills: You drive people crackers, you know. This is all playing a game.

Mrs Marland: It's not playing a game, not letting me ask the ministry staff questions.

The Chair: I think I misheard you.

Mr Mills: Yes, you did, Mr Chairman, because I don't have to tell you that I'm getting totally fed up with this, as are my constituents. We're fed up with this game-playing.

Mrs Marland: It's not playing the game not to allow me to ask the ministry staff questions. You know, as flippant as you can be and say, "This is only a technical amendment," Mr Mills, I'm sorry; you are dealing with a statute that is proceeding through a committee of this Legislature and ultimately may proceed through final reading in the House. Once this becomes a statute in the province of Ontario, everybody has to live by it.

You seem to have this feeling that you have this self-given right to propel it through and not allow us to ask questions, and I think that is grossly unfair because we all represent everybody in this province, not just Mr Mills and Wilmot Creek. I'm sorry. Wilmot Creek may be in your constituency—

Mr Mills: They know you.

Mrs Marland: —and thank goodness they do, because they see an option. The point is, the people I have spoken to in Wilmot Creek—I have spoken to people in every one of your ridings, and they know exactly what's going on—understand that I'm not about to pass something just because it's a technicality. If it was so easy that it was just a technicality, then why bother bringing it to committee? Why bother hearing from the public and having public meetings in the first place? You talk about gamesmanship. The gamesmanship is to invite the public—

Mr Mills: On a point of order, Mr Chair: I don't know if this is going to help. It may be it will muddy the waters; it may be—

The Chair: The point of order is?

Mr Mills: Yes, it's a point of order. I'm quite pre-

pared to ask a legal opinion from the Ministry of Housing to explain this, if it's any help, but that doesn't give you the leeway to grill this person. They have come forward to give a legal opinion of it.

Mrs Marland: You're going to say how I can ask my questions?

Mr Mills: I'm just telling you I'm fed up. I'm fed up with you, believe you me.

The Chair: Order. We'll take 10 minutes.

The committee recessed from 1059 to 1114.

The Chair: We will reconvene. I remind members that we are to discuss the amendments before us, we are to not impugn motives of other members, and that the committee will work in a much more happy fashion if we stay with the rules of parliamentary decorum.

When we concluded the discussions before the brief recess, I think Mr White was the next speaker I had.

Mr White: I'll reserve my comments. I know that I was certainly very concerned when there was discussion made about Mr O'Connor, who I know is very, very supportive of an expeditious passage of this bill and gives to Mr Mills his full support. Those are the comments I was going to make and going to elaborate upon. However, given your wise advice, Chair, I will leave it at that and hope that we can move on with this amendment.

Mrs Marland: I'm going to try to use a lot of restraint so that I don't lower myself to the depths of some of the people opposite me who are making some unfortunate personal comments. I think it's interesting that the staff member for the Minister of Housing finds that amusing, because I don't find it amusing that we're having the kind of meeting we're having in the first place.

I've served thousands of hours on committees and I've never been told who I could ask a question to or how I could ask a question of ministry staff, and it's important that I ask the ministry a question on this amendment. It's my understanding that the ministry staff who are here were answering questions last week, at least at the meeting on May 19, when I wasn't here. So I would like to ask the Chair if I may ask questions to the ministry staff.

The Chair: Certainly members have the opportunity to ask questions. First the question has to be asked.

Mrs Marland: All right. If the ministry staff could come forward, I'd like to ask them about the amendment that's before us.

Mr Mills: On a point of order, Mr Chair: What I'm trying to point out, in respect to the staff, who are non-political, is that they're willing to answer questions about technicalities and things like that; they're not there to answer political questions.

The Chair: Normally what happens is that a specific question is posed. The specific question is then responded to by the person carrying the bill. If that does not satisfy members, then we of course have legislative counsel, who is with the committee and has the opportunity to clarify things for members of a technical standpoint. Certainly, if that's no longer satisfactory, the committee can ask

anyone else, if the committee so wishes, to respond to that. What the Chair would advise Mrs Marland to do is to put her specific question.

Mrs Marland: Thank you. The amendment before us says, "Despite section 113 of the Landlord and Tenant Act, no order for a writ of possession of a rental unit in a land lease community or in a mobile home park shall be issued in respect of the ground set out in section" 105 "of that act." Would Mr Mills be able to read to me section 105 of that act?

Mr Mills: I think it would be appropriate for the legal staff of the Minister of Housing to come forward and answer that question.

The Chair: Gentlemen, if you'd just introduce yourselves before you respond.

Mr Michael Lyle: My name is Michael Lyle. I'm legal counsel with the Ministry of Housing.

Mr Noah Morris: My name is Noah Morris. I'm a policy adviser with the Ministry of Housing.

1120

Mrs Marland: Excuse me. I have numbered pages, Mr Clerk.

The Chair: We are dealing with the number the clerk has assigned to the amendment for the purposes of following this bill in some kind of orderly fashion.

Mrs Marland: Right.

The Chair: You will find in the upper right-hand corner a number that says 27.

Mrs Marland: All right. I misread it. I said 105 and it's 103. Thank you, Mr Grandmaitre.

Mr Lyle: You would like me to read section 103 of the Landlord and Tenant Act?

Mrs Marland: Yes, please.

Mr Lyle: "(1) Despite section 98, 99, 100, 101 or 102, where a landlord in good faith requires possession of residential premises at the end of,

"(a) the period of the tenancy; or

"(b) the term of a tenancy for a fixed term,

"for the purpose of occupation by himself or herself, his or her spouse or a child or parent of the landlord or the landlord's spouse, the period of the notice of termination required to be given is not less than sixty days.

"(2) Where a notice of termination given under subsection (1) is contested and the landlord requires possession of residential premises for a spouse or for a child or parent of a spouse, and the landlord is not married to the spouse, the landlord and the spouse shall file with the court a joint declaration of spousal status."

Mrs Marland: So it's very easy to understand that section of the Landlord and Tenant Act where it pertains to a fixed unit in a fixed building, for example, a traditional apartment building or even an apartment in a traditional house, built-form house, on a piece of property. My question concerning a land-lease community and a mobile home park is, what happens when the possession of that unit requires that unit to be moved? Does it then become in conflict with the Rental Housing Protection Act?

Mr Lyle: The Rental Housing Protection Act does not cover the situation. The landlord does not require municipal approval where the landlord is genuinely in good faith seeking personal possession of the residential premises at the end of the period of the tenancy or the term of the tenancy for a fixed term.

Mrs Marland: So if this amendment were to pass, where it says, "even if the notice of termination was given or application made for a writ of possession before the day the Land Lease Statute Law Amendment Act, 1993," the one we're dealing with, "receives royal assent, unless the approval of the council of the municipality under subsection" so-and-so "...where such approval is required." I wrote down Mr Mills's words. He said it gives retroactivity. Do you agree that it gives retroactivity?

Mr Lyle: I think the concern was the bill as it was initially drafted. If you look at the bill as initially drafted, subsection 22(2) of the bill, amending section 10, adding subsection 10(4) to the act, it refers in the fourth-last line of that subsection to "the 19th day of May, 1993," which was the date the bill received first reading. The amendment changes that reference to the date the act receives royal assent. So that removes the retroactivity which was present in the original bill.

Mrs Marland: That's what I recall Mr Wessenger saying, that although originally the bill was to be retroactive, it is no longer.

Mr Lyle: If all the amendments that have been proposed are passed, that's correct.

Mrs Marland: Is your interpretation of this bill that it isn't retroactive, then?

Mr Lyle: Once the amendments are passed, no, it would not be retroactive.

Mrs Marland: This amendment that's before us?

Mr Lyle: This amendment that's before us would remove the retroactivity which is currently in the bill.

Mrs Marland: That was my understanding from Mr Wessenger, but again I say, Mr Mills in his comments this morning said—

Mr Mills: On a point of order, Mr Chairman: My comments on this were that it's technical in nature and it deals with retroactivity, period. That's what I said: no dates, no days, no years. It deals with retroactivity, and I stand correct that this is what it deals with.

Mrs Marland: Then you've corrected your record.

Mr Mills: I haven't corrected anything. That's what I said originally, and Hansard will show that.

Mrs Marland: I wrote down "gives retroactivity," because right away that flagged for me a concern, because Mr Wessenger has given his assurance that there would be no retroactivity to this bill.

Mr Mills: I've got what I read here. What I said is here.

Mrs Marland: When the bill was originally tabled, it was to be retroactive. That's one of the areas that really interests us, because the purpose of the bill is to be a solution for all the problems in the province, all those problems that we heard about from people who live in what was a seasonal trailer park that has become an all-

year-round park, as an example. We heard terrible stories about people who have lots in a seasonal park that had shower and washroom facilities that were for that park when it was seasonal. It has evolved into an all-year-round park and those shower and washroom and laundry facilities have not been updated. I can think of three parks in particular where they have abominable situations because the landlord will not upgrade those facilities from a seasonal park facility to an all-year-round facility, although that landlord is taking rent from his tenants on an all-year-round basis.

The suggestion was that this bill was to be the remedy for these people. If the bill isn't retroactive, there's a major contradiction, because then it can't be a remedy for what exists. There's a tremendous irony, on the one hand, that Mr Wessenger and the government members are flagging this bill all around their communities: "This Bill 21 is going to be the salvation for all your problems." If it isn't retroactive, it cannot be the solution or the remedy for all their problems. That's why I wanted to be very clear about what this amendment on the floor is doing.

You see, the sad thing is, as I have said before and I will say again, the fact that we have two kinds of ownership that are impacted by this bill. We have people who own real estate and we have people who own real property in terms of a built form. Both need protection under law. This bill is not addressing the needs of those two communities.

There are rights for tenants that must be addressed. There are securities of tenure that must be addressed. There are improvements in the operations of some of these abominable seasonal trailer parks which have become mobile home parks all year round that must be addressed, and this bill doesn't do that.

1130

It still perpetuates the rights of rotten landlords, to tell you the truth. There are some rotten landlords, as there are in any kind of operation of businesses in this province. Where we have rotten operators in business, the responsibility of government is to enact legislation that removes those kinds of operators.

One of the concerns I've had all along, because I listened to the people who made deputations before this committee, is that while some of the amendments which I understand are coming forward from Mr Wessenger, who isn't here today, are going to address some of the concerns of some of the tenants, the people who own real property, structures, there is still a whole area of concerns that this bill is not addressing.

I think it's unfortunate that there are members who have a particular kind of development in their riding—Wilmot Creek and Sandy Cove Acres are the kind of example that I'm giving—and those members are going to get the concerns in two areas for their constituents addressed. In the meantime, we've got something like 40,000 other tenants in land-lease communities, mobile trailer parks, whose concerns are not being addressed by this bill.

I don't see anything in this bill that deals with some of the horrific examples that were brought to this committee,

and this amendment is just a further example of something that is a non-solution. What we want to see for people who choose this kind of environment to live in is the kind of protection they need to have, and this amendment doesn't give that to them.

This amendment or any other section in this bill does not protect people who wish to live in senior-only communities. This government is on the record as saying that it opposes senior-only communities; it opposes senior-only buildings. We presently have senior-only buildings that are government-owned. They can no longer be exclusively senior-only buildings.

In my opinion and the opinion of our caucus, seniors have a right to choose where they want to live, and if they choose a land-lease community or a retirement community, to use another word, they should have protection under law. The way to achieve that is there must be separate and specific laws passed by the government to protect those people in Sandy Cove Acres, those people in Wilmot Creek and in many other first-class land-lease community developments in this province. It is a new, emerging lifestyle and it is a wonderful lifestyle for those people who choose it. They are entitled to protection under law the same as condominium owners are protected under law.

When condominium living in terms of being able to buy your own individual home that is in a building rather than on an individual lot on a linear street, when condominium home development first emerged, the Conservative government in this province passed a Condominium Act to deal specifically with the needs and the protection of people who made those kinds of purchases and chose that kind of living.

What I have said throughout all of these hearings is that people who make those choices need protection. This amendment that is before us does not give them the protection they need. It doesn't give protection to the landlord either. It doesn't give protection or the choices to the tenant.

Frankly, I continue to be concerned about the fact that the information that swirls around Bill 21 is totally misleading. The information that is misleading about Bill 21 is upsetting all of those people who are affected by it, because there are people out there in these poorly managed mobile home parks and trailer parks who think Bill 21, when it's passed, will give them something they've been looking for. It won't force their property owner, "their landlord," to do for them what they need to have done.

If this government were sincerely interested in retirement communities and land-lease communities, they would bring forth legislation to address those concerns. Mr Wessinger has said, "At least Bill 21 would do something in the meantime." He has said that it would take two or three years to bring forward legislation to address the specific needs of land-lease communities and retirement communities.

It's very interesting. I guess it depends what your priorities are. If the priorities of this government are to enact legislation quickly that applies to their own particular ideology, boy, that legislation gets tabled, it gets

passed, we get closure motion on debate so that we in opposition cannot even represent the interests of the people who look to us to represent their interests. It gets hammered right through first, second and third reading because that's the priority of the government.

This amendment that's on the floor obviously is not a priority of the government to protect the people who live in these communities. If the government were interested in these people, they wouldn't leave it to a private member's bill; they would bring in their own legislation.

I'm going to vote against this amendment because it does not give the scope of protection for the people who own mobile and modular homes.

Before we vote on this amendment, I have another question for staff. It refers to rental units in land-lease communities and mobile home parks, and I would like to know whether those rental units are also under Bill 120.

Mr Lyle: I have spoken to some of my colleagues in the ministry who have more knowledge of the accessory apartment issue. As I understand it, your question is related to whether an accessory apartment is possible in a mobile home. Is that what you are asking?

Mrs Marland: No. My question is: Accessory apartments do exist in some trailer parks and land-lease communities now because some of these homes do have basements that are rented. Bill 120 precludes legal basement apartments or accessory apartments where there are—the only exclusion frankly is where they are not on sewers. There's no exclusion as to size of lot under Bill 120. There's no exclusion as to square footage of the building in Bill 120. Whether it's a small or large modular home, if it has a basement and the lot is being served by a sewage system, my assumption is that Bill 120 applies, and that's the purpose of my question.

1140

Mr Lyle: As I understand it, the regulations that are proposed will provide that accessory apartments will not be legal in mobile homes in which there's no hookup with the municipal sewage system. It's also my understanding, and obviously I really don't have much expertise in the area of accessory apartments, that there is some impact, depending on the provisions of the zoning bylaws, requirements of parking and issues like that, as to whether it would be possible to have an accessory apartment in a particular mobile home. That will depend on the zoning bylaw that's applicable.

Mrs Marland: Thank you for your answer. I'm not going to debate it with you, but I will say to the Chair, for the record, that zoning bylaws are pre-empted by Bill 120. Bill 120 pre-empted the Planning Act, the Municipal Act, the Environmental Protection Act and the Rental Housing Protection Act, and I think there's another one. That was the concern we had about Bill 120 and as it pertains to Bill 21.

As this amendment that's on the floor refers to rental units, I think it's important for the people who live in Wilmot Creek and Sandy Cove Acres, who according to some of the statements that have been made in this committee are so anxious to have this bill passed, that they should also know that if they are on a sewage

system when this bill is passed—

Mr Mills: They're just waiting to get an apartment in their homes.

Mrs Marland: —if somebody chooses to sell their unit and the next person who moves in chooses to have a double occupancy through an accessory apartment, it is legal because Bill 120 supersedes all other acts. That is the concern we have had.

I hope those members who are representing their constituencies that have these kinds of development in them are giving them the whole story about what other acts are going to affect their lifestyle.

Mr Morris: If I may, I should point out that Bill 120 has a provincial standard that the unit will have to meet, and the vast majority, 99% of modular units don't have basements and don't have the ability to meet those standards, parking or otherwise, and they have to be on municipal sewers, not private sewer systems.

Mrs Marland: The wording in the act didn't say municipal sewers, I don't think.

Mr Lyle: The wording in the act does not say municipal sewers.

Mrs Marland: I'm correct; it doesn't say municipal sewers.

Mr Lyle: My understanding from my colleagues is that it is proposed regulations.

Mr Arnott: There are land-lease communities that aren't predominantly modular homes, though, all kinds of them. I have some in Wellington county.

The Chair: The Chair is having some difficulty understanding how this relates directly to the amendment that is in front of us.

Mr Mills: Me too; it's crazy, absolutely crazy.

The Chair: It is an interesting and important discussion, but I'm not certain it is totally relevant, but I can be convinced.

Mrs Marland: We're talking about—

Mr Mills: Two-foot crawl space for one-foot-tall people.

Mrs Marland: —units that exist in Ontario today, but you see, the thing about Bill 21 which I hope Mr Mills understands is that Bill 21 doesn't say it only applies to buildings that exist today. This bill is going to affect every building from this day forward that fits the description of the application of the bill.

When people build in these land-lease developments and choose to have basements—the fact is that it doesn't matter whether one exists today or 200 exist today. I recall that when we had the public meetings I said something about, "Well, I guess they don't have basements," and I remember this man who was sitting in the back row who stood up and said: "You don't even know what kind of developments we have. Of course we have basements." He was highly indignant that I didn't know they had basements, for which I publicly apologized, because I don't pretend to know everything about everything like some politicians do. I publicly apologized because I didn't know they had basements.

There is no exclusion in Bill 120 as it pertains to size of building and that has been a concern for us. There can be an accessory apartment even without a basement. That's the whole point. There can be a granny flat for 10 years in your land-lease community lot.

The Chair: Can we bring this discussion more closely to the amendment that is before us?

Mrs Marland: Yes, certainly, because we're talking about "a writ of possession of a rental unit," and I'm simply confirming that the rental unit in a land-lease community or mobile home park may in fact involve two families. I want the people in these land-lease communities and mobile home parks to know that the government has passed a bill that affects what can be in their land-lease community and mobile home park if they are on a sewer system. There is no requirement for a municipal sewage system, just a sewage system.

These very well designed, well-planned, land-lease communities that are well managed and operate in this province, with people in good faith who have also invested in their modular homes in those properties, now are faced with Bill 120, which can permit them to have another unit within their unit or a granny flat on their lot, because the parking requirements and the other standards are not referred to in the bill. The parking requirements we have on record in answers to my question to the minister are not a requirement but a choice of a municipality. So there is no protection for the people in Wilmot Creek and Sandy Cove Acres against Bill 120. On this amendment, as it refers to a rental unit, we have to be very clear what that rental unit may in fact be.

The Chair: Further questions or comments to Mr Mills's amendment to section 22?

All those in favour of Mr Mills's amendment?

Mrs Marland: Mr Chairman, we need a recorded vote and I would ask for 20 minutes to get the Liberal members back.

The Chair: We will reconvene the committee at 3:30 to take the vote immediately after routine proceedings.

The committee recessed from 1150 to 1543.

The Chair: The committee will come to order. The next order of business is a vote—

Mrs Marland: A point of order.

The Chair: —which will be a recorded vote, on Mr Mills's amendment to section 22. All those in favour?

Mrs Marland: Mr Chairman, are you going to accept a point of order?

The Chair: No.

Mrs Marland: All right. Then I'll ask for a recorded vote and 20 minutes to get the members.

The Chair: We've asked for the 20 minutes. It is a recorded vote. That was asked for. All in favour?

Ayes

Carter, Mammoliti, Wessenger, White.

The Chair: Those opposed?

Nays

Grandmaître, Marland.

The Chair: The amendment is carried.

Mrs Marland: What is Mrs Mathysen doing?

Clerk of the Committee: Mrs Mathysen is just visiting. She's not a substituted member this afternoon. She was a substituted member this morning.

The Chair: The amendment is carried.

Mrs Marland: On a point of order, Mr Chair: Is it in order to substitute members for a morning session only?

Clerk of the Committee: If the substitution slip clearly indicates in the morning when I receive it that the member would only be appearing for the morning, not the afternoon, then yes.

Mrs Marland: And that was the case with Mrs Mathysen. Is Mr Mammoliti a member of the committee?

Clerk of the Committee: Yes, he is. So is Mr Wessenger.

Mrs Marland: And Mr White?

Clerk of the Committee: And Mr White.

Mr Grandmaître: On a point of order, Mr Chair: Does the fact that this amendment was moved by Mr Mills and Mr Mills is not present make a difference?

The Chair: No, it does not make a difference.

Mr Grandmaître: Gee, they would have had five chairs.

The Chair: The vote was 2 to 4. It is carried.

Do I have further questions, comments or further amendments to section 22 of the bill?

Mrs Marland: Mr Chairman, a further point of order: Is anyone permitted to substitute for Mr Gordon Mills, the member for Oshawa, who was ejected from the House this afternoon?

Mr White: Mr Mills is not the member for Oshawa; he's the member for Durham East.

The Chair: Mr Mills cannot be substituted for, because the substitution would have had to have occurred within 20 minutes of the committee meeting starting this morning.

Mrs Marland: That's what I thought. Does this mean then that for the afternoon we only have four government members voting?

The Chair: I'm told Mr Dadamo is a member of the committee.

Mrs Marland: I see. And a quorum of this committee is what?

The Chair: Seven.

Shall section 22, as amended, carry?

Interjections: Carried.

Mrs Marland: No. Can we have a recorded vote?

The Chair: All those in favour will say "aye."

Those opposed, say "nay."

In my opinion, the ayes have it. You want a recorded vote?

Mrs Marland: Yes.

The Chair: All in favour?

Ayes

Carter, Mammoliti, Wessenger, White.

Nays

Grandmaître, Marland.

The Chair: The section, as amended, is carried.

Mrs Marland: Mr Chairman, apparently the clerk doesn't have the Conservative amendments. Is that so?

Clerk of the Committee: No, I have them.

Mrs Marland: Do you have all of them, from the beginning?

Clerk of the Committee: My understanding is that you would proceed with the two last amendments to section 25, and the other ones, you'd vote against sections 16 to 24.

Mrs Marland: I did submit amendments to sections 16 to 24. I'm looking at white copies now. Is it correct that the amendments from 16 to 24 were not needed simply because we are to vote against them?

Clerk of the Committee: Yes. This is just to make sure that members are aware that that is what you wish to do. It's just a notice.

The Chair: Do all members have copies of all amendments that are proposed to be placed? Good.

Section 23: Questions, comments or amendments to section 23 of the bill?

Mr Paul Wessenger (Simcoe Centre): I'd like to indicate that I'm recommending voting against section 23. It is no longer applicable with respect to the bill because the provisions relating to its applicability are no longer there.

1550

Mrs Marland: Could Mr Wessenger explain?

Mr Wessenger: In the original bill, as it was set out, there was to be a retroactivity provision going back to the date of introduction of the bill, and there was a provision for damages to be paid for anyone not getting the approvals necessary during that interim period. It was determined that the provision for an interim period was legally inoperable, so the interim period was not dealt with. It's now proposed that the bill will come into effect on the date of royal assent rather than the original date. These provisions relate to the right to sue for damages in the event of someone acting according to a final order of court, which was felt to be not appropriate: to override the court order.

Mr Grandmaître: You're saying that section 23 is now redundant?

Mr Wessenger: It should not be there because the provisions relating to the aspect of it being retroactive to a specific date are not to be there. It provided for a very complex procedure of damages which was felt to be very unworkable and likely to be thrown out by any court. We're deleting the provisions because they would not be workable and likely found by a court not to hold up.

Mrs Marland: As Mr Wessenger wasn't here this morning and we did have some discussion this morning on retroactivity—we also had some discussion about my non-attendance at the meeting you had on Monday, May 15—I was wondering if you would tell the committee whether or not you had a conversation with me which did cover retroactivity and some of the other changes you

were proposing to the bill, and also the fact that we spoke on Thursday, Friday and Saturday prior to that meeting on Monday and I told you I could not attend. I was wondering if you'd like to confirm that fact.

Mr Wessinger: I would certainly confirm that you had advised me you would not be attending the meeting on that particular date. Yes, that's correct.

Mrs Marland: I appreciate that. This morning Mrs Mathyssen said you were waiting to start the meeting for my arrival.

Mrs Marland: I thought your bill was to try to resolve the problems around the province for people who live in mobile home parks and trailer parks. As you're removing the retroactivity now, can you tell me how any section of the bill, including this one that you're now suggesting we vote against, can be a remedy for those parks that presently exist if the bill isn't retroactive?

Mr Wessinger: Although the bill would not be retroactive with respect to a matter that has been judicially determined, still, if court proceedings were in process or if a notice had been sent out to remove tenants from a property, the bill would be retroactive to the extent that all those proceedings would be stopped in their tracks. The bill is retroactive to the extent that any proceedings would be of no effect. It only would be of effect if there was a final court order obtained. The difficulty was with the prior provision for attempting to override final court orders; that was felt to be extremely problematic, to put it mildly. It was felt it would not stand up to try to override court orders.

Mrs Marland: We heard from a lot of tenants who had a lot of concerns. We also heard from property owners, the real estate property owners, who had concerns. If none of those concerns are before the courts, this bill can't touch them?

Mr Wessinger: No. For instance, to give a specific example, if a landlord had commenced an application under the Landlord and Tenant Act to get vacant possession of the lands that are a mobile home park, and the matter had not come up for a hearing and a judge had not made a final decision on the matter, when this act came into effect, it would prevail over whatever the court proceedings. In other words, the court proceedings could not continue.

Mrs Marland: Because it hadn't reached a final decision.

Mr Wessinger: That's right, if they hadn't got a final decision. But if a final court order had been obtained ahead of the act coming into effect, of course that final court order would stand up, as is the normal practice. Normally legislation does not override prior court decisions.

Mrs Marland: In light of that answer, can you tell me why you wanted to proceed with this bill before the meeting which you have scheduled for Tuesday, June 7, with all parties who have an interest in the bill?

Mr Wessinger: What we have been proceeding with doing is dealing with the technical aspects of the bill. You'll note there are a number of matters that have been stood down. The matters of substance that were stood

down were those related to the whole question of section 11, which is basically the substantive item of the bill. There are a great deal of technical aspects to the bill and a small number of major, substantial items. The ones in dispute, with respect to the question of first right of refusal and the whole question of the signs, were stood down to see if we can get a resolution of those matters.

Mr Grandmaître: Was the Ontario Land Lease Federation aware of the motions that were stood down?

Mr Wessinger: I believe all the amendments have been filed except the one we're presently working on with respect to signs. That one they would not yet be aware of because it's still being drafted by legislative counsel.

Mr Grandmaître: Is that the only one they're not aware of?

Mr Wessinger: I believe that would be the only one that would not be available to them. All the rest have been filed, most of them for a long time, with the committee. Certainly we've been providing copies of those amendments to those who requested them as best we could.

Mr Grandmaître: I have a letter in front of me dated May 2. I don't know if a meeting was organized after that date, but this letter claims that Mr Wessinger and Mr Gordon Mills were supposed to set up a meeting with the Ontario Land Lease Federation and that this meeting or meetings never took place. Am I right in saying this?

Mr Wessinger: A meeting had been arranged in which all parties—

Mr Grandmaître: It's been arranged, but it hasn't taken place.

Mr Wessinger: There is a meeting taking place on June 7, Tuesday afternoon at 4 pm.

Mr Grandmaître: But you still claim that the Ontario Land Lease Federation is aware of the motions.

1600

Mr Wessinger: The amendments have been available to whomever requested them. The only amendment I'm aware of that is not yet available is the latest draft—there have been various drafts along the way—the revision with respect to size.

Mr Grandmaître: Wasn't that the reason the Ontario Land Lease Federation didn't want you to take any action on this bill until this meeting or meetings took place with the Ontario Land Lease Federation?

Mr Wessinger: They may have put forward a position. My position was very clearly put forward that I intended to deal with the technical items to get them out of the way, and that's my intention. Once we finish the technical items today, I would suggest we adjourn the meeting. I'd be quite agreeable to that suggestion.

Mrs Marland: Regarding section 23, I have copies of correspondence between various interested parties, correspondence that went both to the clerk of this committee and to Mr Wessinger as the proponent of the bill. In a number of these letters, concern has been expressed by the authors of the letters that they have requested copies of the amendments and had not been able to receive the

amendments, although they had asked both Mr Wessenger and Mr Mills for those amendments.

We are in the position where we are dealing with what in Mr Wessenger's opinion is purely a "technical" amendment. I am not a retirement community property owner, nor do I have any interests in real estate or real property or buildings that are affected in any way by this legislation, so as a member of this committee I don't know what is purely a technical amendment. It's a rather difficult position to be in when those people who have an interest in this bill, namely, the parties that, informally, Mr Wessenger and Mr Grandmaître and I agreed we should have a meeting with—those parties couldn't even get copies of Mr Wessenger's amendments.

Frankly, Mr Wessenger, I should tell you, now that you're here, that I felt very betrayed by the fact that after a subcommittee meeting where the majority agreed that this bill would not proceed until after we'd had the meeting with all the stakeholders, you came to the committee and placed another motion that this bill proceed.

I probably should be doing the same thing the Liberal Housing critic is doing, which is to not attend these meetings, but I have chosen to hang in, and have said to you both on the phone and in our subcommittee meetings that if we could all sit together in one room with all the stakeholders and hear what all their concerns were, I believe there's a solution for anything. If everybody heard what everybody was concerned about at the same time, there could possibly be a workable solution. But your actions today have been only to proceed with your bill from your own perspective, and I find that very difficult to deal with.

Now you're saying that section 23 will no longer apply, so let's vote against it. I'm really at a loss to deal with any of these motions without having had the benefit of that meeting, and that meeting is taking place on Tuesday—finally. You should know that this morning Ms Mathysen said I had been given due notice of that meeting and chose not to attend, whereas you know I was given due notice of that meeting on Thursday and in fact apologized for the way it had been handled. I think I've been treated very unfairly in this whole debate. Obviously, there are members in your caucus who haven't known of what your conversation with me has been, and then you came into a meeting and, as I said, betrayed me by saying you were going to proceed with those things that were technical.

Well, I think an amendment that deals with a writ of possession of a rental unit is more than just a technical amendment. If you really want to succeed with this bill, as I've said to you on a number of occasions, everything should be up front and out on the table, and the parties to the bill—both the tenants and the landlords, as your members like to describe them—have to have full access to all the amendments, so they can deal with them and have logical comment and maybe constructive alternatives—I don't know, maybe just support them—prior to the meeting on Tuesday.

Before we vote on this amendment, I'd like to ask you if all the people coming to your meeting—it's your bill—

that I've agreed to come to on Tuesday now have all the amendments. The reason I ask is that I sat down at this table half an hour ago and I've just been handed three new amendments. I want to know what's going on. I've been handed an amendment to section 9, I've got an amendment to section 23(1) and 24(1). I'd like to know whose amendments these are, because you've just moved a motion that we vote against section 23.

You can sit here and say all this is technical, but as I said this morning, any statute in the province of Ontario is technical. It applies a law; a statute is a law, and yes, there are technicalities to the implementation of that law. To say we can deal with it because it's just a technicality—well, I'm sorry. I'm not a lawyer and I'm not in a position to know whether these amendments we're now dealing with will have impact with those groups we're meeting with next Tuesday.

Mr White: On a point of order, Mr Chair: I believe we were dealing with section 23, which is not an amendment, and the member keeps referring to amendments which are not before us.

The Chair: Thank you, Mr White. All members know they should speak to the section we are debating.

1610

Mrs Marland: Could Mr Wessenger tell me, before I need to vote against section 23, what this amendment I've just been handed is?

Mr Wessenger: We can't discuss those amendments except to say they have been drafted by legislative counsel, obviously wanting to ensure that the motions are in order and that they carry out the intent of the bill. In any legislative process, there's always last-minute technical amendments that occur, in any bill.

We're dealing with section 23, which is not an amendment, although, to be fair, one could argue it is a substantive item, but a substantive item that I think everyone would agree ought not to be in the bill. It's getting rid of material that would not make a workable bill. On that basis, I think we should proceed with deleting it. It's just like the prior occasion when we deleted the provision with respect to the reserve fund, which was felt to be unworkable. In order words, we got rid of the clutter. This is certainly getting the clutter out of the bill.

Mrs Marland: I don't know, until I meet with the groups, what is of interest to them. We have three more amendments that the groups don't have. Legislative counsel does not prepare amendments without direction from someone. Could I ask, through the Chair, who directed legislative counsel to prepare the three amendments I've just received?

Ms Sibylle Filion: I can answer that. The three amendments you've just received replace motions that have been tabled previously. The one referring to section 23.1 of the bill is to replace the next motion, which is circled number 29 at the top right-hand corner. And there's another motion to add section 24.1 to the bill, which replaces the motion that is circled number 31 in the top right-hand corner.

Mrs Marland: Who directed you to prepare these motions?

Ms Filion: I was sort of acting on my own accord, based on my discussions with the clerk. The previous motions that had been tabled were not in order, and these motions replace them because they're presented in such a way that the committee could deal with them.

Mrs Marland: So they're replacing 29 and 31.

Ms Filion: Yes. They don't make any substantive changes.

Mr White: On a point of order, Mr Chair: We're not dealing with those amendments yet. We're dealing with section 23, which is not an amendment.

The Chair: Mr White is correct.

Mrs Marland: Mr White can play whatever games he wants to.

Laughter.

Mrs Marland: Mr Chairman, I'm going to withdraw from this committee. I'm sitting here trying to do a job which apparently entertains Mrs Mathysen. If she thinks what is taking place here is humorous, that's her choice; it's not mine. I will withdraw.

Mrs Mathysen: On a point of order, Mr Chair: I know Mrs Marland is multitalented, but I'm afraid she is not yet capable of mindreading. I think she should bear that in mind.

Mrs Marland: I am capable of hearing laughter.

The Chair: Can we deal with section 23?

Mrs Marland: Mr Chairman, I do not wish to proceed with this bill prior to the meeting with the interested groups on Tuesday. I hope Mr Wessinger has invited everyone to that meeting who has an interest in this bill, from both sides. I will not sit here and have—

The Chair: Section 23, please.

Mrs Marland: —government members trying to intimidate the opposition, so I will withdraw from the committee until after we have had the meeting on Tuesday.

The Chair: Further discussion to section 23? Shall section 23 carry?

Mr Wessinger: Carried.

Mrs Marland: Mr Chairman, I don't think you have a quorum.

Interjections: No.

Clerk of the Committee: She's asking for a quorum, Mr Chair.

The Chair: But she's not in her chair. No. Section 23 is lost.

Mrs Marland: Mr Chairman, don't you need seven for a quorum?

The Chair: Section 23.1.

Mr Wessinger: I move that the bill be amended by adding the following section:

"23.1. The act is amended by adding the following section:

"Commencement of activity under subsection 4(1.2)

"13.1. Until a certificate is issued under subsection 13(6), no person shall commence the activity mentioned in subsection 4(1.2)."

The purpose of this amendment is related to a certificate for an appeal, and it's just to ensure that no work is commenced until the appeal time has gone by.

Mrs Marland: Mr Chairman, I have a point of order. Did you advise at the beginning that seven was a quorum?

The Chair: That's the standing order.

Mrs Marland: You have five government members, and you make six.

Mr White: And yourself.

Mrs Marland: If I withdraw, the committee does not have a quorum.

The Chair: How many members do we have?

Clerk of the Committee: Six. Mrs Mathysen is not a member.

The Chair: Have you asked for a quorum call in the committee, Mrs Marland? Is that what the Chair has been asked?

Mrs Marland: Yes.

The Chair: There is not a quorum present. Standing orders permit 10 minutes for a quorum to be established in the committee. In the next 10 minutes we need to have seven members here.

The committee recessed from 1618 to 1627.

The Chair: A quorum is now present.

Mrs Marland: Are you counting me?

Clerk of the Committee: Yes. You're in the committee room.

Mrs Marland: I understand if you withdraw from the table, you are not counted. If you want me to withdraw from the room, I will, but we've always ruled, even for voting purposes, that if you withdraw from the desk you're not counted.

The Chair: Mr Wessinger, we were discussing 23.1

Mr Wessinger: The purpose of this motion is to indicate that no person shall commence any activity or work until the period has ended for filing an appeal. It's a normal process to protect the rights of the individuals until the appeal process goes by. It's a substitution for a previous amendment which we're withdrawing, which will not be moved because it would be out of order.

Mr Daigeler: Can I just ask a question? I have to be in the House a bit later on because I'm speaking to the famous bill. Are we still under the understanding we were this morning, that the controversial amendments will be coming at a later date?

Mr Wessinger: Yes, Mr Daigeler. I won't proceed beyond what Mr Mills indicated this morning.

The Chair: Further questions or comments to Mr Wessinger's amendment 23.1? Shall 23.1 carry? Carried.

Section 24: Questions, comments or amendments?

Mr Wessinger: I move that section 24 of the bill be struck out and the following substituted:

"24(1) Section 18 of the act is amended by adding the following clause:

"(a.1) prescribing things that are part of the infrastructure of a land lease community or a mobile park for the

purposes of the definition of infrastructure in section 1.

"(2) Clause 18(c) of the act is repealed and the following substituted:

"(c) prescribing, for the purposes of subsection 11(7), the criteria upon which approval may be granted or refused under subsection 4(1), 4(1.2) or 5(1) and prescribing different criteria to apply with respect to land lease communities and mobile home parks and with respect to the conversion of land lease communities and mobile home parks to any class of non-profit cooperative housing."

The purpose of this amendment is to add the right to prescribe with respect to an earlier amendment in terms of infrastructure.

The Chair: Further questions or comments? Shall Mr Wessenger's amendment to section 24 carry? Carried.

Shall the section, as amended, carry? Carried.

Now I believe there is a motion to add section 24.1.

1630

Mr Wessenger: I move that the bill be amended by adding the following section:

"24.1 The act is amended by adding the following section:

"Same

"19.1 Every person who contravenes subsection 4(1.2) and every director or officer of a corporation who authorized, permitted or acquiesced in the contravention by the corporation, is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 or to imprisonment for a term of not more than one year, or to both, but no person is guilty of an offence if the person did not know, and in the exercise of due diligence could not have known, of the contravention."

This is a substitution for the previously filed section 24.1, which was out of order. This basically relates to the penalty provisions, to ensure that the same ones that are in the Landlord and Tenant Act apply to a breach under the provisions of this act.

The Chair: Questions or comments? Further amendments? Shall Mr Wessenger's amendment to section 24.1 carry? Carried.

Mr Wessenger: I move that the bill be amended by adding the following section:

"24.2 The act is amended by adding the following section:

"Delegation by minister

"23. The minister may delegate in writing any power or duty granted to or vested in the minister under this act to another member of the executive council or to persons or classes of persons employed in the public service of Ontario."

This is a normal delegation provision that's in most bills.

The Chair: Further questions, comments? Shall Mr Wessenger's amendment, section 24.2, carry? Carried.

Section 25.

Mr Wessenger: I move that section 25 of the bill be struck out and the following substituted:

"Commencement

"25. The act comes into force on the day it receives royal assent."

I think that's quite obvious.

The Chair: Questions, comments? You think the reason is obvious. Carried.

Shall section 25, as amended, carry? Carried.

Mr Wessenger: We have some technical provisions that were stood down, and we might just review the ones that were stood down. There's a section 9.1 to be added, if I'm correct. It's another technical amendment.

The Chair: Just so everyone is clear, we're moving to section 9.1, which is in reality a new section.

Mr Wessenger: I move that the bill be amended by adding the following section:

"9.1 The act is amended by adding the following section:

"Same

"122.1 Any person who knowingly contravenes section 125.2 is guilty of an offence and on conviction is liable to a fine not exceeding,

"(a) \$5,000 for a person other than a corporation; and

"(b) \$25,000 for a corporation."

This is to provide a separate penalty provision.

The Chair: Questions, comments? Further amendments? Shall Mr Wessenger's amendment, section 9.1, carry? Carried.

Mr Wessenger: I'd like to withdraw the motion on 10.1.

The Chair: We need unanimous consent. Agreed. Mr Wessenger has withdrawn his amendment, section 10.1.

Mr Wessenger: I'm sorry to take so long, but I have to rely on leg counsel to assist me in these things.

The Chair: That's fine. We have a bit of time.

Mr Wessenger: Previously we passed 16(2), which is a technical amendment, but there was a problem with respect to its language, as was pointed out by the clerk, and we need unanimous consent to withdraw that amendment. Could I have unanimous consent?

The Chair: Agreed.

Clerk of the Committee: Excuse me, please. The amendment was carried, therefore it becomes part of the bill. As it is part of the legislation, therefore all he has to do is move that amendment, which would cross this out.

The Chair: All right. We are dealing with subsection 16(2).

Mr Wessenger: I move that subsection 16(2) of the bill, as amended by the standing committee on general government on Thursday, May 19, 1994, be struck out and the following substituted:

"(2) Until subsection 27(2) of the Residents' Rights Act, 1994 comes into force the definition of 'rental property' in section 1 of the act shall be deemed to read as follows:

"'rental property' means,

"(a) a building or related group of buildings in which one or more rental units are located,

"(b) a mobile home park in which two or more rental units are located, or

"(c) a land lease community in which two or more rental units are located,

"and includes all common areas and services and facilities available for the use of its residents, but does not include a condominium.

"(2.1) On the day subsection 27(2) of the Residents' Rights Act, 1994 comes into force or on the day this section comes into force, whichever is later, the definition of 'rental property' in section 1 of the act, as re-enacted by subsection 27(2) of the Residents' Rights Act, 1994, is repealed and the following substituted:

"'rental property' means,

"(a) a building or related group of buildings in which one or more rental units are located,

"(b) a mobile home park in which two or more rental units are located, or

"(c) a land lease community in which two or more rental units are located,

"and includes all common areas and services and facilities available for the use of its residents, but does not include,

"(d) a condominium,

"(e) accommodation that is subject to the Public Hospitals Act, the Private Hospitals Act, the Community Psychiatric Hospitals Act, the Mental Hospitals Act, the Homes for Special Care Act, the Homes for the Aged and Rest Homes Act, the Homes for Retarded Persons Act, the Nursing Homes Act, the Correctional Services Act, the Charitable Institutions Act, the Child and Family Services Act or the Developmental Services Act, or

"(f) accommodation occupied by a person solely for the purpose of receiving rehabilitative or therapeutic services agreed upon by the person and the provider of the accommodation, where,

"(i) the parties have agreed that,

"(A) the period of occupancy will be of a specified duration, or

"(B) the occupancy will terminate when the objectives of the services have been met or will not be met, and

"(ii) the average length of the occupancy of the occupants of the building in which the accommodation is located does not exceed six months or such lesser time period as the regulations made under this act prescribe."

This was necessitated to ensure that it correlated with Bill 120, which has already received third reading.

The Chair: Shall Mr Wessenger's amendment to 16(2) carry? Carried.

Mr Wessenger, do you wish section 16 left open?

Mr Wessenger: Can I just ask if there are any further amendments to section 16, from legislative counsel?

The Chair: I'm informed by the clerk that there are no further amendments to section 16.

Mr Wessenger: We might as well deal with it.

Clerk of the Committee: I apologize; there is an amendment, 16(5).

The Chair: Was it stood down because it's controversial?

Clerk of the Committee: This is the unorganized territories.

Mr Wessenger: I'll leave it to the Chair to determine whether he wishes to push it.

The Chair: I recall now. I had asked questions of staff and I don't believe we've received information.

Mr Wessenger: Why don't we leave it stood down and deal with the other technical ones.

The Chair: That sounds good to me. I'm told you have an amendment on section 17 that you may wish to withdraw.

Mr Wessenger: Yes, I'd wish to withdraw the one that's been put.

The Chair: Consent to withdraw? Agreed.

Place your new amendment, Mr Wessenger.

Mr Wessenger: I move that section 17 of the bill be struck out and the following substituted:

"17. Subsection 2(1) of the act is repealed and the following substituted:

"Application of act

"2(1) Despite any act or agreement to the contrary, this act applies to,

"(a) any rental property comprised of a building or a related group of buildings situated in any municipality in Ontario except municipalities that are exempted by the regulation; and

"(b) all rental properties that are land lease communities or mobile home parks."

This is a substitution for the previous one that was not in the proper form.

The Chair: Further questions or comments? Shall Mr Wessenger's amendment to section 17 carry? Carried.

Do you wish section 17 to remain open or shall we carry the section?

Mr Wessenger: I don't think there's any reason to leave section 17 open.

The Chair: Shall section 17, as amended, carry? Carried.

Is that it?

Mr Wessenger: That's all the technical ones.

The Chair: I would entertain a motion to adjourn.

Mr Wessenger: Yes, I move that we adjourn.

The Chair: Mr Wessenger has moved that the committee now adjourn. All those in favour? Agreed.

The committee will stand adjourned until Thursday morning next.

The committee adjourned at 1645.

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*Wessenger, Paul (Simcoe Centre ND)

*White, Drummond (Durham Centre ND)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Carter, Jenny (Peterborough ND) for Mr Morrow

Cooper, Mike (Kitchener-Wilmot ND) for Mr Dadamo

Mathysen, Irene (Middlesex ND) for Mr Wessenger

Marland, Margaret (Mississauga South/-Sud PC) for Mr Dave Johnson

Also taking part / Autres participants et participantes:

Ministry of Housing:

Lyle, Michael, legal counsel

Morris, Noah, policy adviser, existing housing stock, housing policy branch

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Filion, Sibylle, legislative counsel



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Third Session, 35th Parliament

**Assemblée législative
de l'Ontario**

Troisième session, 35^e législature

**Official Report
of Debates
(Hansard)**

Thursday 9 June 1994

**Journal
des débats
(Hansard)**

Jeudi 9 juin 1994

**Standing committee on
general government**

Land Lease Statute Law
Amendment Act, 1993

**Comité permanent des
affaires gouvernementales**

Loi de 1993 modifiant des lois
en ce qui concerne les terrains à bail

Chair: Michael A. Brown
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Thursday 9 June 1994

Jeudi 9 juin 1994

The committee met at 1018 in room 228.

LAND LEASE STATUTE LAW
AMENDMENT ACT, 1993LOI DE 1993 MODIFIANT DES LOIS
EN CE QUI CONCERNE LES TERRAINS À BAIL

Consideration of Bill 21, An Act to amend certain Acts with respect to Land Leases / Projet de loi 21, Loi modifiant certaines lois en ce qui concerne les terrains à bail.

The Chair (Mr Michael A. Brown): The purpose of the committee meeting this morning is to deal with the clause-by-clause examination of Bill 21, An Act to amend certain Acts with respect to Land Leases.

As members know, we have a number of sections that have been stood down. I believe we were discussing Mr Wessenger's amendment to section 11.

Mr Bernard Grandmaître (Ottawa East): Before we proceed, Mr Chair, through you, could I ask the sponsor of this bill, Mr Wessenger, to respond or try to provide us with an answer to a letter sent to him by our Housing critic, Mr Cordiano.

The Chair: This relates to section 11?

Mr Grandmaître: It doesn't relate to section 11. It relates to the bill. And I'll be very honest with you, Mr Chair. If I don't get a reasonable answer, I am willing to walk out of this meeting. I think it's a waste of time.

Mrs Margaret Marland (Mississauga South): What is the answer about the Liberal Housing critic's letter to the proponent of the bill? Is that going to be part of the record of these hearings?

Mr Grandmaître: Can I ask a question, Mr Chair?

The Chair: Yes, whatever question you want to ask, but it should relate to section 11.

Mr Paul Wessenger (Simcoe Centre): In response, I would suggest that we should deal with the amendments before we vote on the bill as a final—

Mr Grandmaître: Mr Chair, I'm trying to ask the proponent of the bill a question concerning our Housing critic, Mr Cordiano, because it represents the Liberal caucus view. I think it's very important that it should be on the record, and if a satisfactory answer is not coming, I think it's a waste of time for the Liberal caucus to be here. Can I ask my question?

The Chair: Members can ask questions about section 11.

Mr Grandmaître: I'm dealing with the bill. It deals with section—

The Chair: And Mr Wessenger's amendment.

Mr Grandmaître: Not exactly. It's to the bill.

Mrs Marland: Actually, it does relate to section 11, so you can proceed. It relates to the impact of the bill, which includes section 11.

Mr Grandmaître: The bill includes section 11.

Mr Wessenger, on June 6 of this year, Joe Cordiano, our Liberal Housing critic, sent you a letter expressing the views of the Liberal caucus concerning the process, or the lack of process, dealing with this private member's bill. We realize that this bill is a very important one, so important that it should be a government bill. If I can refer you to the last paragraph of this letter:

"The Liberal caucus believes that any legislation pertaining to land-lease communities must protect both the residents and the economic viability of their communities. We encourage the Minister of Housing to bring forward government legislation which, based on a thorough consultative process, would more adequately address the concerns of the thousands who reside in land-lease communities across the province."

Mr Chair, I bring this to your attention because this is the Liberal caucus view, and it's very important, before we proceed, that an answer must be forthcoming from the proponent of this private member's bill.

The Chair: Thank you. Further discussion?

Mr Wessenger: Seeing we are on section 11, I will refer to section 11, but perhaps in my comments on section 11, I'll very shortly deal with it.

To remind members of the process here, first of all, this is a private member's bill, it's my bill. I would suggest that the member look at Hansard. This matter was extensively discussed with Mr Sean Conway at the clause-by-clause hearings, and if I recall correctly, Mr Conway seemed to be reasonably satisfied that this bill should go forward. Those were his comments that he expressed on the record, and I would just ask the member to take a look at them.

It's a private member's bill, not a government bill, and it's not a bill that's designed to deal with a comprehensive approach to the whole question of land-lease communities. The structure of the bill is not such to provide for a comprehensive approach. It's a limited approach.

To remind the member of what the bill does, the bill basically deals with three acts. The bill deals with the situation in the Landlord and Tenant Act, and what the bill does under the Landlord and Tenant Act is three items.

One item is that it brings the land-lease communities

under the provision of the Landlord and Tenant Act, which equates the situation exactly the same as it is for mobile home parks. It was a technical problem, I would suggest, when the amendments were made with respect to mobile home parks. That's one thing it does.

The second thing it does is that in section 11, the two substantive items are the question of controlling the exercise of the first right of refusal, which was section 11, which we're dealing with, and the third item it deals with under the Landlord and Tenant Act is the question of the right to place a sign.

Those are the substantive items under the Landlord and Tenant Act, three items.

Under the Rental Housing Protection Act, there is one substantive item. It brings the Rental Housing Protection Act to apply to mobile home parks and land-lease communities throughout Ontario. That is substantive.

The Planning Act one is very minimal in the sense that it requires that to be developed, mobile home parks and land-lease communities go through the site plan process of approval if they're going to proceed.

As you can see from the substance of the bill, there are basically five substantial items in the bill, and that was the intent. It's a private member's bill, it's not a government bill. All the decisions with respect to the bill have been made by this committee and by myself. I've had the assistance, it's true, of legislative counsel to a large extent in dealing with the technicalities, and also the Ministry of Housing has offered technical advice with respect to many of the provisions, which I appreciate.

With that, now that we're dealing with section 11, this provision has been stood down. It provides in effect that the normal provisions that usually are used in contract law with respect to first right of refusal shall apply with respect to mobile home parks. In other words, it allows the mobile home park owner or the land-lease community owner to have a first right of refusal to purchase from the tenant when they wish to sell their property, on the same terms and conditions as contained in the offer.

I might add that I've received no comments of criticism with respect to this provision. The amendment was drafted on the basis of the hearings, and the representations were made by both tenants who are owners of mobile homes—

Mrs Marland: Could you just repeat that in case I missed what you said? You've received no questions or concerns?

Mr Wessenger: I received no concerns with respect to this amendment, that's right. I've had no concerns expressed to me by any person with respect to the wording of this—

Mrs Marland: What's the number of the amendment?

Mr Wessenger: It's 125.1.

The Chair: It has a 9 on the corner of it.

Mr Wessenger: It seems to be something that's very acceptable to all concerned. It amends the provisions in the original bill, which I think were unacceptable. This is one of the issues that was raised at the hearings. The original provisions of the bill prohibited first rights of

refusal, and that was criticized quite soundly in the hearings.

What it in effect does is protect the equity interest of the tenant to ensure that they get the full market value of their property when they sell. It also protects the position of the owner of the park, that they have some control over who lives in the park.

Mrs Marland: In speaking to section 11, including section 125.1 of the Landlord and Tenant Act, I think it's fair to report to the committee that we did have a meeting on Monday with some of the parties to the bill. We had essentially a two-hour meeting and we did discuss this section, the first right of refusal, and we did discuss the signage problem.

What I think was very significant at the meeting on Monday—unfortunately, this was significant—was that we didn't get to discuss the next section. Has the Rental Housing Protection Act section been voted on?

1030

Mr Wessenger: Most of it has been voted on. There is one outstanding item. Section 16 still remains to be voted on.

Mrs Marland: Section 16. Unfortunately, we didn't get to discuss that at the meeting on Monday.

The Chair: Just for your information, the sections that are open are section 11, section 16 and section 26.

Mrs Marland: I see. So if section 16 of the RHPA is open, that means we could discuss any part of that section, right? I'll leave my comments on that till then.

I have had some phone calls from some of the tenants since the meeting on Monday, and they've certainly been a benefit to me. I haven't had any phone calls from the landlords since the meeting on Monday but I have talked to some of the tenants. What I have learned—and it does apply to the amendment that's on the floor. In one case, one of the tenants I talked to lives in a park where, frankly, the property owner must be, to put it nicely, a rather unfortunate individual in terms of his inability to deal with people, his inability to deal fairly with people.

I have said all along that there are rotten operators in this business in this province, as there are in every business. My concern is that the public—to use Mrs Mathysen's words of a few minutes ago, she said a lot of old people. The majority of people who are in this form of living accommodation are older people, and I agree with her on that score. But what I heard at the meeting on Monday, and what I've learned since Monday, in fact, speaking to one of Mrs Mathysen's constituents as well, is that first of all there is a lot of misunderstanding in the province of what protection exists today for people who are in this kind of accommodation and what remedies there are available today for those people with problems.

I've also learned that it becomes imperative, in my opinion, that the government act immediately to bring government legislation and the strength that comes with government legislation, rather than a private member's bill, to protect the interests of people who have made that particular kind of investment to address their living and accommodation needs.

Where we have unscrupulous intimidation tactics by some of the property owners against the innocent tenant of the property who has made a substantial investment in their home, their built-form home, I think it's very unfair for us to vote on this bill as a whole or this section as an individual section because, to use the words of I think Mr Mitchell, who's the president of Twin Elm Tenants Association in Strathroy—he's your constituent, isn't he, Irene?

Mrs Irene Mathysen (Middlesex): Yes, he is. He's actually the past president of the association, but certainly my constituent.

Mrs Marland: This gentleman, as past president, said at the meeting on Monday that this bill was a Band-Aid approach. He thinks—

Mrs Mathysen: Excuse me, Mr Chair. That's not quite accurate.

Mrs Marland: No, let me finish.

The Chair: Through the Chair. I can put you on the list, Mrs Mathysen.

Mrs Marland: The unfortunate thing is that we won't have a Hansard of what was said on Monday, nor will we have a tape recorder. But he said it was a Band-Aid approach. If you listen, Irene, I'll tell you what he said and then you'll know whether you have to—

The Chair: Through the Chair. It would be most helpful to have the debate structured through the Chair.

Mr George Mammoliti (Yorkview): Everybody just calm down. Everything will be okay.

The Chair: Thank you, Mr Mammoliti, for your help.

Mrs Marland: Through the Chair, I don't want to misrepresent Mr Mitchell, so I don't want his MPP to think that's what I'm doing. He said it was, in his opinion, a Band-Aid approach, but with the problems out there, he felt it was better than nothing.

In this particular case, this gentleman has had to move out of the park because he couldn't take the pressures of coping with the presidency and living in the park. Probably that's why he's now past president; he made that decision because of the situation he found himself in.

His concern, which was shared, I have found in the last two days, by a number of tenants, is that some of these people in different parts of Ontario are frantic to get some remedy. What they think is that Bill 21 will provide that remedy and the protection, that it is better than nothing.

Even Mr Leo Bouillon, who's from the London and Area Tenant Federation—he's an executive director, so he's not an inexperienced person. If he's executive director, he's a paid, salaried person who would be very knowledgeable of the problems, I would suggest, and even he said that this bill has a very narrow scope.

What really concerns me is that if we proceed with this bill, we will never get the legislation, at least from this government, that is needed to protect everybody in Ontario. It's needed, frankly, as of last week, last year, two years ago, whatever.

As the option of living in land-lease retirement communities or all-year-round trailer parks, all the different

categories of accommodation, expands and grows—because realistically it is, as I've said, a good option for people—it makes it even more imperative that these people are protected.

One of the problems these people face—it's one of the problems the people in Ms Mathysen's riding have faced, and two other ridings that I spoke to—is that the Rent Control Act is really what at the moment is putting them in the greatest box, because they have appeals going back five years. They're faced with the fact that if their appeal is lost, they may have to pay five years in back rent.

Five years in back rent for their lots, for most of those people, would be beyond what they could pay. So then they're in a position where they can't pay their rent. It brings us, actually, to this section, because then what do they do with their unit?

The questions I have on the section dealing with the Rental Housing Protection Act relate to this section, and maybe Mr Wessinger wants to answer them. If somebody decides they've just totally had it and they want to remove their unit from an existing lot and therefore reduce the number of rental units available, would they have the option to do that under the amendment to the Rental Housing Protection Act that is in Bill 21? I'm asking the proponent of the bill.

1040

Mr Wessinger: My understanding is that under the Rental Housing Protection Act there's nothing prohibiting an owner from removing his own unit from the site.

Mrs Marland: Can you show me where it says that?

Mr Wessinger: I'll ask legislative counsel, or the Ministry of Housing people might be able to—

Mrs Marland: Maybe that's a question we should ask the staff.

Mr Wessinger: I recall reading it. Perhaps the ministry staff could just refer to the number, rather than have to read the whole section through, but I do recall it being in there.

Mr Michael Lyle: My name is Michael Lyle. I'm a legal counsel with the Ministry of Housing.

Mr Noah Morris: My name is Noah Morris and I'm a policy adviser with the Ministry of Housing. I have policy responsibility for the Rental Housing Protection Act.

Mr Lyle: In answer to Mrs Marland's question, the Rental Housing Protection Act only covers rental properties. In fact, the mobile home owned by a tenant would not fall within the definition of rental property under the Rental Housing Protection Act and therefore would not be subject to approval by the municipality under the Rental Housing Protection Act for any removal of the mobile home.

Mr Morris: The only situation where it would apply is where the tenant actually rents the home and rents the land, because the home itself is not a rental unit.

Mrs Marland: What you're saying is that the reverse works also, so why are we talking about the protection of the Rental Housing Protection Act?

Mr Lyle: I'm not sure what you mean by "the reverse works." The intention of the bill is to ensure that leased lots receive the protection of the Rental Housing Protection Act.

Mrs Marland: That the lot receives the protection.

Mr Lyle: That's correct, because the lot as well is being rented.

Mr Morris: So the lot cannot be demolished or severed.

Mrs Marland: Right, but if there isn't a unit existing on the lot, what does that do for accommodation?

Mr Morris: It would be the same as a vacant rental unit.

Mrs Marland: So is it only in this legislation that a piece of ground is a unit?

Mr Lyle: No, that's also the case in the Rent Control Act where you have a leased lot. The lot itself is subject to the Rent Control Act.

Mrs Marland: I can see, almost, renting the ground, but when you're talking about housing protection, how does that protect a unit when it's only a piece of ground? Are we saying that if you put a tent on it we're maintaining the integrity of the act?

Mr Lyle: As I understand the intent of the bill, it's intended to ensure that the landlord cannot take a piece of ground which he is renting to someone out of the rental stock and use it for some purpose other than rental.

Mr Morris: The services which go into providing the services for that land cannot be removed without application.

Mrs Marland: I understand that, but I'm simply saying that to protect only the ground is a bit questionable.

Mr Wessinger: If I might just interject here, the whole purpose of this Rental Housing Protection Act applying is to protect the security of the person who owns the unit that's situated on a site. That's the whole purpose of making the Rental Housing Protection Act, just to give security of tenure for that relationship with the owner of the land, to ensure that the owner of the unit is not forced to move their unit without going through the provisions of the Rental Housing Protection Act. It's giving security of tenure. The major difficulty right now is a situation with respect to many mobile home parks, that the mobile home park owner can decide to close the park unilaterally, and there are no restrictions on it, no approval process. I think we're getting off topic; I think we should really reserve this discussion.

Mrs Marland: They are related.

Mr Wessinger: Just to clarify, it's to ensure that they have security of tenure, that there has to be municipal approval if there's going to be a closure of a mobile home park or land-lease community.

Mrs Marland: But don't they have security of tenure under the Landlord and Tenant Act as long as they're paying their rent?

Mr Wessinger: The situation is such that, first of all, land-lease community homes have no security because until this bill goes through they're not under the Landlord

and Tenant Act unless a court were to construe them as being mobile homes. So there's certainly that problem for a land-lease community.

With respect to mobile homes, the situation is such that a landlord can decide to change the use of the park unilaterally. For instance, he could decide, "I'm going to just make it vacant land," that's a change of use, and then give four months' notice to the mobile home owner who leases the land or who rents the land to leave the premises. There are several court applications presently under way in the province of Ontario. That's why the urgency of this act getting passed, because until this act is passed, there's no protection for those persons who own mobile homes who are under the immediate danger of losing their tenure.

The reality is that if the park is closed, they have in effect lost the equity of investment in their mobile unit. That's the whole intention of the Rental Housing Protection Act. It's not absolute protection, but it does mean that the municipality and the owner have to meet certain tests if they're going to close the park and basically have to meet the test of there being reasonable alternative accommodation available, which would be construed to mean that there would be another site to which the mobile home could be relocated.

Mrs Marland: How is it that—

Mr Wessinger: Mr Chair, I do think we're getting off topic with respect to this section relating to first right of refusal.

The Vice-Chair (Mr Hans Daigeler): At the moment, Mrs Marland still has the floor. I've given some latitude to you in terms of back and forth. I did have Mrs Mathysen on here still, but seeing that she's not here, we're still with Mrs Marland.

Mrs Marland: Actually, I don't believe you have a quorum, Mr Chairman.

The Vice-Chair: There's no quorum. We'll be adjourned for 10 minutes, and if there's no quorum within 10 minutes, we'll adjourn for the day.

The committee recessed from 1048 to 1058.

The Vice-Chair: It being two minutes to 11, as I had indicated, 10 minutes—

Mrs Mathysen: Mr Chair, I was on the list.

The Vice-Chair: Just a minute.

Interjection.

The Vice-Chair: A moment, please. The 10 minutes being over, do we have a quorum present?

Clerk of the Committee (Mr Franco Carrozza): There is a quorum.

The Vice-Chair: Mrs Mathysen was next on the list.

Mrs Mathysen: Just very briefly, I think I'd like to correct some of the things that Mrs Marland said. She said in her conversation with Mr Mitchell that he talked about this being a Band-Aid. What she neglected to add to that was that he said it was a Band-Aid to stop an infection, because, as was alluded to, there have been significant problems in this park because of the conduct of the landlord in question. By virtue of the fact that we need this bill desperately for the vulnerable, I say, let's

vote on this section. Let's get on with it.

The Vice-Chair: Anyone else who wants to speak on section 11? Seeing none, all in favour? Opposed? Carried.

I understand that on 125.2 of section 11 of the bill there's also an amendment.

Mr Wessenger: I move that section 125.2 of the Landlord and Tenant Act, as set out in section 11 of the bill, be struck out and the following substituted:

"For sale signs

"125.2(1) A landlord shall not prevent a tenant who owns a mobile home that is situated in a mobile home park from placing on the mobile home or the residential premises a sign that the home is for sale.

"Alternative method of advertising a sale

"(2) Despite subsection (1), a landlord may prohibit tenants of a mobile home park from placing a sign that the home is for sale on the mobile home or the residential premises if the following conditions are met:

"1. In the case of a mobile home park where the tenants have not formed a tenants association described in subsection (4),

"(i) the landlord provides a reasonable alternative method of advertising that a mobile home is for sale in the mobile home park,

"(ii) the alternative method of advertising is provided free of charge, and

"(iii) the landlord ensures that the public has access to the advertisement at all reasonable times.

"2. In the case of a mobile home park where the tenants have formed a tenants association described in subsection (4),

"(i) the conditions listed in paragraph 1 are met,

"(ii) a prohibition on the placing of for sale signs has been accepted by a vote of the members of the tenants association, and

"(iii) reasonable notice of the vote has been given to all tenants of the mobile home park.

"Same

"(3) A landlord shall not prohibit tenants from placing signs on their mobile home or residential premises under subsection (2) unless,

"(a) the prohibitions apply to all tenants in the mobile home park; and

"(b) the alternative method of advertising is available to all the tenants of the mobile home park.

"Tenants association

"(4) For the purposes of subsection (2), 'tenants association' means a tenants association of which all tenants of the mobile home park are eligible as members.

"Application

"(5) Despite any agreement or waiver to the contrary, this section applies to tenancies under tenancy agreements entered into or renewed before and subsisting on the day the Land Lease Statute Law Amendment Act, 1993, receives royal assent or entered into on or after that day."

Mrs Marland: I have a question. My question continues about the point of what the remedy is by any

of these amendments for the people who have the problem. Actually, I need to ask the staff this question, Mr Chair.

The Vice-Chair: Is that agreeable, Mr Wessenger?

Mr Wessenger: Is that the question, what happens if someone with respect to—

The Vice-Chair: The question is whether, since you're the mover, you're agreeable to have the Ministry of Housing officials come.

Mrs Marland: We're dealing with section 11?

The Vice-Chair: Yes, and 125.2.

Mr Wessenger: I think I'll answer the question first and then we'll see if we require any clarification.

Mrs Marland: You don't know what my question is. I just asked—we're still dealing with section 11?

Mr Wessenger: Section 125.2. We're dealing with section 11.

Mrs Marland: Have you passed section 125.1?

Mr Wessenger: Yes, we have.

The Vice-Chair: Yes. We're on 125.2.

Mrs Marland: Did you pass that after two minutes to 11?

Mr Wessenger: Yes, we did.

Mrs Marland: Very interesting. Okay.

The Vice-Chair: Mrs Marland, you have the floor.

Mrs Marland: My question then will apply to section 11, 125.2 of the Landlord and Tenant Act, to the staff.

Mr Wessenger: I will give the preliminary reply and if you require any—

Mrs Marland: Well, I haven't asked the question.

Mr Wessenger: You're going to ask the question. Okay. If you'd like to ask the question—

Mrs Marland: To the staff.

Mr Larry O'Connor (Durham-York): Place the question.

Mr Wessenger: Place the question and then we can see whether it requires—

The Vice-Chair: I have asked Mr Wessenger, since he's the mover of the bill, whether he's agreeable to have Ministry of Housing staff come to the table at this point.

Mr Wessenger: I would like to know the question before I—

The Vice-Chair: Well, the question is yes or no.

Mrs Marland: You see, what's interesting, Mr Chair—

The Vice-Chair: I'm sorry. Mr Wessenger, yes or no?

Mr Wessenger: No, unless she tells me what the question is.

Mrs Marland: Okay. You see, this is very interesting. Last week when you were not here in the morning, Mr Wessenger, as the proponent of the bill, we had a little difficulty being able to ask the staff questions, because we were told that it was a private member's bill and we couldn't ask the staff policy questions but we could ask them technical questions. You have access to the ministry staff, as you do to legislative counsel staff. I really would

like to know what is the difference between your status on this committee and mine. Maybe you could tell me that.

Mr Wessenger: My position, Mrs Marland, is that I am the carrier of the bill and, as the carrier of the bill, all questions are put to me. I have the obligation to answer them. If I feel that I cannot answer those questions adequately, then I call on either legislative counsel or Ministry of Housing people to answer. But certainly any bill I've ever carried, I've always taken that position, that I want to hear the question. If I feel I can't give the answer, then I obviously am going to—

Mrs Marland: Okay. I just hope—

Mr Wessenger: It's just a process. No matter how it occurs, it's always the process that the question should be directed to the person carrying the legislation.

Mrs Marland: Mr Chair, my rights as a member of this committee are being vetted by a government member of this committee, and I take strong exception to that. It makes it a farce for me to sit here as a member of the committee if the proponent of the bill has to decide whether he can adequately or not answer the question, to use his own words. I think it is totally insulting and outrageous for me to sit here as a member—

Mr O'Connor: On a point of order, Mr Chair: I just wondered if Mrs Marland was going to place the question that she had now, at this point. She had a question she wanted to place.

Mrs Marland: Oh, this is wonderful. There is absolutely no point in my staying in this committee. First of all—

Mr O'Connor: You had a question.

Mrs Marland: First of all, the proponent of the bill is going to decide whether he can adequately answer my question and then—Mr Chair, I will try to talk to you, because I'm hoping you will look on this fairly—based on whether Mr Wessenger decides whether or not he can answer my question fairly, then follows whether or not I have access to ministry staff who are employed for the benefit of everyone in this province and certainly, as ministry people, are accessible to every member of this Legislature. I will not sit here and continue this farce of having to go through Mr Wessenger, the proponent of the bill, about whether or not I can ask a question.

What it really points up is the fact that what we have going on here is a charade which is not in the best interests of the people in this province.

Mr O'Connor: You tell that to—

Mrs Marland: I heard at the meeting on Monday—and it's unfortunate that Mr O'Connor wasn't at the meeting on Monday because we don't have a Hansard about what was said at the meeting on Monday. But one of the things that was said at the meeting on Monday was that this is a Band-Aid piece of legislation, but it's better than nothing. It was also said that it had a narrow scope.

What I'm simply saying is that this bill, if it were to pass in its present form, is going to apply to everything that falls within its jurisdiction in Ontario, whether or not today everything that is there is even legal to start with. I will give you an example, which is where we have had

seasonal, summer mobile trailer parks that have evolved into all-year-round parks, with no special services or improvement in those services. They are illegal operations now within their municipalities, because they were seasonal parks.

What this bill will do is legitimize something that today is illegal. The tragedy is that if you're sincerely concerned about protecting those people—and for the most part those are the parks that have the people in them with the least amount of this world's worldly goods, because it's the least expensive access. They're not the \$60,000, \$70,000, \$80,000 trailer homes that people who have been able to invest in beautiful places like Sandy Cove Acres and Wilmot Creek and some of the other well-run parks that I know the government members are familiar with. I'm trying to think of another one that was represented at this meeting. Tecumseth Pines is another one that falls into the category of well-run parks, where there were two outstanding items.

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The two outstanding items for Wilmot Creek and Sandy Cove Acres, which Mr Mills and Mr Wessenger represent, were concerns about signage and first right of refusal. What has happened is that they are at the point of signing an agreement where those two items are going to be resolved in those parks. So to proceed with this bill, which gives a blanket statute applying to everybody, including all the rotten operators and the illegal operators and the illegal parks, is not in the best interests of the people of this province.

I'm here as the Housing spokesperson for our PC caucus in Ontario and now I am being vetted about what kind of questions I can ask. I have never heard of anything so outrageous in my life. As a matter of fact, the Housing critic for the Liberal caucus has written a letter, of which we had to force quotations to be read into the record this morning. The Housing critic for the Liberal Party has long since said this must be a government bill to be effective to enact the protection that's needed for these people.

One of the most passionate people at this committee on behalf of her constituents has been the member for Middlesex, yet most of the problems that the member for Middlesex's constituents have are with the Rent Control Act. The Rent Control Act exists today, and the backlog in the hearings is as a result of the inaction of the government to throw enough resources in terms of staff into getting those hearings proceeded with, and puts the tenants at risk with back rent settlements when appeals are finally settled.

So I'm here saying, as I have said at least a dozen times in the process of these hearings, I'm here hoping that this amendment that's on the floor now and the ultimate passage of any legislation will protect the interests of people who choose this kind of lifestyle. My concern is that the lifestyle is most desirable. The concept of land-lease communities is as desirable for those people who choose it as the concept originally was for condominium living.

What we did in this province when condominium living became a choice of thousands of people and indeed

a very successful form of accommodation was the government passed the Condominium Act. It was a government bill that protected the interests of people in this province who chose to live in condominiums.

This amendment of this bill is amending a bill which is not a government bill; it amends a bill which is standing in the name of a private member, Mr Wessenger. Mr Wessenger is now going to decide what questions I can ask of the government staff. Well, I'm sorry, but that is not in the best interests of the people of this province. If I have questions that I wish to ask the staff as a result of the meeting we had on Monday and the conversations I've had with those people since Monday, I am not going to sit here and have those people insulted by the fact that Mr Wessenger says, "I have to answer the question first, and if I can't reasonably answer it, then I may refer it to the staff."

Who is going to decide whether his answer is reasonable or not? It is so ludicrous. I ask you, Mr Chairman, whether you think a proponent of the bill has the right to decide whether another committee member can have access to government staff.

The Chair: I believe I answered that question last week, and my answer is the same this week: If you have a question, you can place a question, but the committee will decide if the ministry can be helpful, not any particular member.

Mrs Marland: So the committee, with a majority of government members, is now going to decide whether I can speak to my own staff.

The Chair: Just to be helpful, last week I think this problem was resolved without a vote of the committee.

Mrs Marland: Yes, it was resolved without a vote, but now we have different—

The Chair: I might suggest you place the questions. Rather than deal with this in the hypothetical, we could maybe deal with it in the concrete.

Mr Wessenger: That's all I'm saying, Mr Chair.

Mrs Marland: No, all you're saying is that you want to hear my question and then you're going to decide whether I can ask it.

The Chair: Mr Wessenger isn't going to decide whether the staff could be asked. The committee will decide that.

Mr Wessenger: That's right.

Mrs Marland: Well, you've changed your mind then.

Mr Gordon Mills (Durham East): We do that with government bills, Margaret. If I'm the PA, you ask me. If I can't answer it, I ask staff to answer it. That's the way it goes, for goodness' sake. That's how I've always handled it when I've been here for the minister.

Mrs Marland: Gord, I haven't been here for nine years that I don't know how it goes with government bills. I know how it goes with government bills. The point is that we all wish this were a government bill. The unfortunate thing is that for all the time we spend on this bill, we still don't know, if it were passed, whether the government will proclaim it or what action the government will take. That was one of the questions I was going

to ask the staff last week, not about the whole bill. Maybe Mr Wessenger can give us some direction. Has he discussed this amendment, section 11 of the bill, section 125.2 of the Landlord and Tenant Act, with the Minister of Housing?

Mr Wessenger: This amendment was drafted on my instructions as a result of the discussions that arose out of the hearings and subsequent discussion at the meeting with particularly the tenants of the land-lease communities, and it was at their suggestion that the clause was drafted. On that basis, I gave instructions to legislative counsel to prepare the amendment. I will say that I did send a copy to the Ministry of Housing so it could comment on it.

Mrs Marland: And did they comment on it?

Mr Wessenger: They indicated they had no problem with it.

Mrs Marland: And did you discuss it with the Minister of Housing?

Mr Wessenger: No, I didn't discuss it with the minister. I just used the resources of legal counsel of the Ministry of Housing in order to ensure it achieved what I thought the tenants wanted it to achieve. I must say this also has some support from owners as well as tenants, the suggestion that a tenants' association should have the say with respect to the issue. As I said, it was as a result of the public hearings, as a result of the input that this amendment has been drafted, very much a reception to what was said.

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Mrs Marland: At the meeting on Monday, Ms Phyllis Baker, the president of the Ontario Owned-Home Leased-Lot Federation, which is the tenants' association, did tell us they have a number of concerns with the bill and with some of the amendments. One thing she said, which certainly concerned me because it isn't addressed anywhere in this bill, is, "We've had a really difficult time to get municipalities to understand what kind of beast we are." And when it comes to section 16, which is the Rental Housing Protection Act, the next section we'll deal with, that's where there is a direct involvement with the municipality. So we can't throw out the fact that all the tenants are happy, I would say to the proponent.

I would also say that early on in the public hearings there was some reference to the fact that the people in Sandy Cove Acres and Wilmot Creek had a great deal of concern about two areas. Those two areas, they told us on Monday, are about to be signed. They do have written, legal contracts they are about to sign between their lawyers and the owners of Wilmot Creek and Sandy Cove Acres. If I'm not repeating that correctly, maybe Mr Mills could correct me.

Mr Mills: They are in the process. This right of first refusal, I agree, is not a problem any more at Wilmot Creek and not a problem in any properties owned by the Rice brothers, and that was said. It's just a question of signing an agreement which is contingent upon this, I believe, being passed.

Also, you spoke about Phyllis Baker. I had some extended conversation with her after the hearing the other

night when we had that discussion, and I believe they've written a letter to the leader of the Conservative Party imploring the Conservatives to get on side and pass this legislation as soon as possible. We also understand that Mrs Baker, in her capacity, has written to Lyn McLeod, the Leader of the Opposition, imploring her to influence her members to pass this.

I believe, as Mr Wessenger said, that in the hearings we had earlier, Mr Conway—and it's on the record in Hansard, I'm sure—said words to the same effect: "What is the delay here? Why don't we do this?"

Mr Grandmaitre: If I may, Mr Chair?

The Chair: Mrs Marland actually has the floor.

Mrs Marland: I'm happy to relinquish.

Mr Grandmaitre: He's talking about the opposition and he's also referred to Mr Conway. To get the record straight, when Mr Conway said these things, he said them before you introduced 25 amendments.

Mrs Marland: And now it's 40.

Mr Mills: I'm not going to argue about the amendments, which are purely technical. You know that.

Mrs Marland: Mr Chair, could Mr Mills define "purely technical"?

The Chair: It appears to me we would be better confined to discussing the actual elements of the amendments proposed by Mr Wessenger.

Mr Wessenger: Yes, the questions should refer to that. Mrs Marland asked when this bill would come into effect. I refer to section 25, which has been amended to say that this act comes into effect from the day it receives royal assent, so it does not require proclamation.

Mrs Marland: It doesn't require proclamation because it's a private member's bill.

Mr Wessenger: It's stated right in the act, and whatever the act states is what applies with respect to when an act comes into effect. In this case, the act, once it's given royal assent, is law.

Mrs Marland: Where does it say that? It was going to be retroactive. In the printed version I have—

Mr Wessenger: Section 25 has been amended to read as follows: "This act comes into force on the day it receives royal assent."

Mrs Marland: I guess that was one of the amendments that were dealt with at the meeting that wasn't supposed to take place when I wasn't there. So it's no good my looking at this. Section 25 is a new section. Is that what you're saying?

Mr Wessenger: No, it was an amended section. Section 25 was amended.

Mrs Marland: Section 25 what?

Mr Wessenger: Just 25.

Mrs Marland: There are six subsections to 25 that I'm aware of.

Mr Wessenger: They were all deleted.

The Chair: Mrs Marland, in your package it would have 33 in the upper right-hand corner, these yellow sheets.

Mrs Marland: Thank you.

To return to the amendment that's before us, this is an amendment dealing with the Landlord and Tenant Act, so where this amendment refers to a mobile home in a mobile home park, it has to match up with a definition in the Landlord and Tenant Act. Correct?

Mr Wessenger: Although it refers to mobile homes, there is a further section in Bill 21, section 125 of the Landlord and Tenant Act, a provision that—

Mrs Marland: What section are you in?

Mr Wessenger: I'm trying to find it, Mrs Marland. It's section 12 of the bill, which says:

"Sections 125, 125.1, 125.2...apply, with necessary modifications, to tenancies for possession of land,

"(a) intended and used as a site for a land lease community home used for residential purposes; and

"(b) situated in a land lease community."

Mrs Marland: Are you reading from page 4 of the printed bill?

Mr Wessenger: Yes, I am. That section, 128.1, makes all the provisions with respect to mobile homes apply also to land-lease community homes.

Mrs Marland: But where does that section refer to the Landlord and Tenant Act?

Mr Wessenger: It's part of the Landlord and Tenant Act. There's the "Landlord and Tenant Act" heading, and then it refers to the sections, so all these sections apply to the Landlord and Tenant Act up till the end of page 7. 1130

Mrs Marland: I see what you're saying. Is that correct, that all those interpretations are still dealing with the LTA, because that's where it starts, on page 1?

Mr Wessenger: Yes, that is correct.

Mrs Marland: All right. Where it says the definition of "residential premises" is "land that is situated in a non-seasonal mobile home park," I have two questions I would like to ask the staff.

Mr Wessenger: First of all, you should be aware that all the provisions with respect to non-seasonal mobile home parks have been deleted from the act.

The Chair: Would you like to place your questions, Mrs Marland?

Mrs Marland: I'd like to ask the staff a question on this.

Mr Wessenger: Perhaps you could indicate what your question is.

Mrs Marland: Mr Chair, I would like to ask the staff a question.

The Chair: If you place your question, if the answer that you might get or might not get isn't satisfactory, then the committee, if it chooses, can ask the staff to come forward.

Mrs Marland: All right. I'd ask the committee if I can ask the staff a question.

The Chair: That's legitimate. Would the committee permit the staff to come to the table and answer a question from Mrs Marland?

Mr Wessenger: With respect to this section?

Mrs Marland: With respect to the amendment that's before us.

Mr Wessenger: If the questions are purely with respect to the section, we'll allow it, as long as the questions are addressed to this section.

The Chair: I hear agreement.

Mrs Marland: We would be better off in Russia. Why are you so defensive?

The Chair: Order.

Mr Wessenger: Margaret, that should be very easy for you to determine.

Mrs Marland: There is a reference to "non-seasonal mobile home parks." If it is a seasonal park that has become a non-seasonal park through use but not through legal zoning, how will this act and this amendment apply?

Mr Morris: I believe all provisions dealing with non-seasonal mobile home parks have been removed in a previous amendment that has been carried, so there is no reference to non-seasonal mobile home parks currently in the bill.

Mrs Marland: So what you're saying is that every section of this bill applies to seasonal mobile home parks as well.

Mr Morris: No. The definition of "mobile home park" under the Landlord and Tenant Act still applies. The requirement is for four continuous months of residence, after which it becomes a mobile home park, as defined in the Landlord and Tenant Act.

Mrs Marland: So if people are using their homes from May till September—May, June, July, August, September—all the provisions of this bill apply to them.

Mr Morris: Where a park is used and intended for use for more than four months, this bill and the Landlord and Tenant Act apply to it.

Mrs Marland: Right. So the calls I've had from operators of what exist today as seasonal parks in this province are now going to be under the Landlord and Tenant Act and all the other provisions of this act.

Mr Morris: My understanding is that this act has not changed the current situation. The current situation is, in cases where they are occupied for more than four months and the intent of the landlord is to rent it for more than four months, the Landlord and Tenant Act does apply. It does apply now and it will apply after Bill 21, if Bill 21 becomes law.

Mrs Marland: I guess it isn't in here, but is the interpretation of "occupancy" that the building, the vehicle, the tent trailer is on that site for more than four months and isn't occupied full-time? An example that might help is that if you have a cottage, there are two qualifications under the Assessment Act that you will be assessed as an all-year-round resident or a seasonal resident with a cottage, which is a permanent building. I realize it's not dealing with tenancy, but it's dealing with another provincial statute and an interpretation of what is seasonal and non-seasonal. That's the point I want to be clear about, that if it's not occupied all-year-round, it's

seasonal. I think what you're telling me is that in this case, if it's occupied for more than four months, it's viewed as being all-year-round.

Mr Morris: No. Under the Landlord and Tenant Act, the definition of "mobile home" is quite clear in terms of its provisions around construction, and the definition of the mobile home park is contained in the Landlord and Tenant Act under section 79.

Mrs Marland: I think I have the act here, because I know you gave me a copy before. I don't seem to have my Landlord and Tenant Act with me. I know I asked this question on another section of the bill. Can you give it to me? I don't have it. I'm sorry.

Mr Mills: Mr Chairman, I wonder if members could stay on topic. I wish you'd enforce that, please, because we're getting way, way away from the amendment that's before the committee. I don't think it's right.

The Chair: Mrs Marland.

Mrs Marland: Thank you. This is the definition of "mobile home park": "the residential premises and the land, structures and facilities of which the landlord retains possession and that are intended for the common use and enjoyment of the tenants of the landlord where two or more occupied mobile homes are located for a period of 60 days or more."

This is very interesting, Mr Chairman, because it says "of which the landlord retains possession." Do you realize what that says? This motion before us refers to "mobile home park." Under the Landlord and Tenant Act, "mobile home park" means "the residential premises and the land, structures and facilities of which the landlord retains possession and that are intended for the common use and enjoyment of the tenants of the landlord where two or more occupied mobile homes are located for a period of 60 days or more."

So if the tenants own their building and they rent it out, this would apply, but if they own it and they don't rent it, how does it apply?

Mr Lyle: If they own the unit, the mobile home itself?

Mrs Marland: Do you have your copy in front of you?

Mr Lyle: Yes, I do.

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Mrs Marland: Okay. The definition of "mobile home park" is "the residential premises and the land, structures and facilities of which the landlord retains possession and that are intended for the common use and enjoyment of the tenants of the landlord where two or more..." etc. In other words, it becomes a mobile home park with a minimum of two mobile homes. Right?

Mr Lyle: That's correct.

Mrs Marland: Is there also a definition in here of "mobile home"?

Mr Lyle: Right behind "mobile home park" you'll find a definition of "mobile home."

Mrs Marland: Okay. "Mobile home" means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent resi-

dence for one or more persons, but does not include a travel trailer or tent trailer or trailer otherwise designed.”

Mr Chair, how can a bill that applies to seasonal parks also fit the description of mobile home when it says here “permanent residence”?

Mr Lyle: Perhaps I can try to clarify. The regulations to the Landlord and Tenant Act provide that something is exempted from the definition of “residential premises” and therefore not subject to the Landlord and Tenant Act if it’s occupied for less than four months.

Mrs Marland: So what we have is an act that defines “mobile home” and then we have a regulation that comes along and changes that because it has exemptions.

Mr Lyle: The regulation modifies the definition of “residential premises” not just with respect to “mobile home.” That’s correct.

Mrs Marland: If this amendment refers to a mobile home that’s situated in a mobile home park, to get that definition we have to go to the act, which I just read, and you’re saying that the exemptions are less than four months, in terms of seasonal, correct?

Mr Lyle: That’s correct.

Mrs Marland: And yet they are compelled to be under this act if they’re there more than four months. What I think is terribly interesting here is that if they’re there more than four months, they don’t get the exemption, but if they’re there more than four months but it’s not their permanent residence, then it doesn’t apply.

Mr Lyle: I guess you could get into a discussion of what is intended by the term “permanent residence.” If you look at it, I think it refers back to the design of the structure.

Mrs Marland: No. Let’s just deal with what is printed here.

Mr Lyle: That’s what I’m dealing with. The definition of “mobile home” says, “any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons.” So the key is the nature of the construction or manufacture of the mobile home. It’s not whether it’s being used as a permanent residence but whether it’s designed to allow for permanent residence.

Mrs Marland: Okay. We certainly have heard that this legislation is going to apply to the development in Guelph by the University of Guelph, where they are permanent structures. Unfortunately, Mr Eades is not here this morning, but he did actually on the record, when he appeared as a deputation, describe the development of the Guelph university, and those are permanent structures. If someone can help me, are they not townhouses with numbers of floors?

Interjection: Some of them are. There’s a variety of designs.

Mrs Marland: In any case, they’re permanent structures; they’re not mobile. So why would this bill apply to a development such as that new concept that is now—actually, I think they’re opening it this weekend at the Guelph university.

Mr Lyle: That would be because of section 1 and

section 2 of the bill. Section 1 of the bill adds the term “land lease community” to the definition of “residential premises,” and then section 2—

Mrs Marland: Just a second. What page are you on?

Mr Lyle: That’s the first page of the bill.

Mrs Marland: And where are you reading?

Mr Lyle: I’m reading subsection 1(2) of the bill. It says “land intended and used as a site for a mobile home or a land lease community home used for residential purposes,” etc.

Mrs Marland: Okay, so they come under land-lease community homes for residential purposes.

Mr Lyle: That’s correct.

Mrs Marland: So then what happens when we go to the amendment that’s on the floor and find that the definition for the amendment on the floor refers to—I’ve lost it. My page flipped over. What section is it again that gives the definition in the Landlord and Tenant Act?

Mr Lyle: It’s section 79 of the Landlord and Tenant Act.

Mrs Marland: Okay, thank you. Then how is it that the bill, Bill 21, applies to two things, yet when you go to the definition of “mobile home,” it doesn’t apply; it doesn’t jell together?

Mr Lyle: I’m not sure I understand what you’re saying.

Mrs Marland: Section 79 of the Landlord and Tenant Act says under definitions, “‘mobile home’ means any dwelling that is designed to be made mobile, and constructed or manufactured to provide a permanent residence for one or more persons”—is that referring to the size of the building when it says “one or more persons”? I suppose it is—but does not include a travel trailer or tent trailer or trailer otherwise designed.”

Mr Lyle: Perhaps it would be of assistance if you’d look at section 2 of the bill, which adds a definition of “land lease community” and “land lease community home” to the definition section of the Landlord and Tenant Act.

Mrs Marland: Is section 2 of Bill 21 quoting the Landlord and Tenant Act or is it an amendment to the Landlord and Tenant Act?

Mr Lyle: Section 2 of Bill 21 is an amendment to the Landlord and Tenant Act. I should point out that section 2 of the bill, as it’s been carried by the committee, has deleted the definition of “non-seasonal mobile home park.”

Mrs Marland: It’s deleted?

Mr Lyle: The definition of “non-seasonal mobile home park.” If you look at section 2 of the bill, it sets out three new definitions that were not previously found in the Landlord and Tenant Act. Section 2, as carried, deleted the definition of “non-seasonal mobile home park” and only added to section 79 of the Landlord and Tenant Act a definition of “land lease community” and a definition of “land lease community home.”

Mrs Marland: Right. So it comes back to the question I’ve asked. Now that “non-seasonal” is deleted, it

means all mobile home parks. Correct?

Mr Lyle: Subject to the regulation that we discussed earlier.

Mrs Marland: Right. And the regulation says that if it's occupied more than four months—

Mr Lyle: Then it's subject to the Landlord and Tenant Act.

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Mrs Marland: You don't have the regulation with you, I guess, do you?

Mr Lyle: No, I'm afraid I don't.

The Chair: Given that we've passed those various sections regarding definitions, you could maybe apply your questions more directly to the section in front of us.

Mrs Marland: Yes, you're right, Mr Chairman, but the amendment before us is pertaining to a description in the definitions that I think there's a loophole in. That's why I think it's good that places like Wilmot Creek and Sandy Cove Acres and Tecumseth Pines and these other good operations are having their own agreements with their own clients, therefore their own tenants, because I think that loophole is going to put an unscrupulous landlord in a position of power over a tenant who wants this alternative method of advertising a sale. I think what is going to happen is that we're going to have different classes of tenancy established by the fact that there are different classes of protection under this amendment.

I haven't got the amendment that was at the committee on Monday, but is this the reworded—

The Chair: What amendment are you discussing?

Mrs Marland: The one that's on the floor.

Mr Wessinger: There have been minor changes, but in substance it's the same amendment that was circulated at the Monday meeting with respect to signs. Legislative counsel have made certain changes to it, but not in substance.

Mr Mills: Mr Chairman, on a point of order, when does anyone else get a chance to say anything here? I've listened now for two hours, virtually, to Ms Marland, and I'd like to ask a question. Do I get that opportunity?

Mrs Marland: I'll yield the floor to you. Go ahead.

The Chair: Yes, you may do that, because Mr Daigeler is at the moment not in his seat.

Mr Mills: Mr Chairman, thank you for that. I think the amendment before us has had ample debate and I'd call the question.

Mrs Marland: I yielded the floor for Mr Mills to ask a question, so I think that's a little disappointing. I don't want to say "underhanded," but that's a little disappointing. I thought you had a question.

Interjection.

Mr Mills: I understand there's a procedure problem, so we'll withdraw that, Mr Chair.

The Chair: Do you have further questions, Mr Mills?

Mr Mills: Yes, Mr Chair. What I would ask you then is, do you think there has been ample discussion on this amendment? How about the sign—

The Chair: As you know, Mr Mills, the Chair has no

mind of his own on these matters. The committee decides those questions.

Mr Mills: Okay, Mr Chair, I've still got the floor. I want to ask legal counsel if this amendment is a workable solution, as she sees it, with the signs and the whole thing.

The Chair: You may ask legal counsel, but she can give you a legal opinion, not an opinion as to—she can say what's workable, I suppose.

Ms Sibylle Filion: From the standpoint of the drafting, certainly from the point of view of the instructions that I received, this does what it was intended to do. You might want to speak to legal counsel as to the—

Mr Mills: All right, thank you. Does this do what it's intended to do, then? That's my next question.

Mr Lyle: Yes, as I understand what it was intended to do, it does.

The Chair: Further questions or comments regarding Mr Wessinger's amendment to section 11?

Mrs Marland: In the case where there isn't a tenants' association, that's addressed in paragraph 125.2(2)1. To read paragraph 125.2(2)1:

"(2) Despite subsection (1), a landlord may prohibit tenants of a mobile home park from placing a sign that the home is for sale on the mobile home or the residential premises if the following conditions are met:

"1. In the case of a mobile home park where the tenants have not formed a tenants association described in subsection (4)"—that subsection (4) is on page 2, I assume?

Mr Lyle: That's correct.

Mrs Marland: "(i) the landlord provides a reasonable alternative method of advertising that a mobile home is for sale in the mobile home park,

"(ii) the alternative method of advertising is provided free of charge,"—that's a good thing—"and

"(iii) the landlord ensures that the public has access to the advertisement at all reasonable times."

My concern here is where there isn't a tenants' association—well, maybe I'll wait to see if they share my concerns.

On Monday at the meeting, one of the points that I asked was how much control was being given to the landlord where there wasn't a tenants' association about these signs, and that was the point at which Mr Mills referred to one example that he gave where there could be a book in the office.

Mr Wessinger: Mrs Marland, if I can comment on that, at the present time, if a landlord has a prohibition on signs, the tenant has no recourse to object to that prohibition. If that's what's in the lease, then the tenant is bound by it.

The same thing, no matter what restrictions the landlord might place on advertising, the tenant again is stuck with not being able to advertise in the land-lease community in any manner whatsoever.

So the landlord, at the present time, could restrict the right of the tenant to have any type of advertisement in

the land-lease community or any notice of any type. That's the present situation.

Mrs Marland: In a mobile home park, you mean?

Mr Wessinger: And a land-lease community, both of them. In fact, in a land-lease community the landlord could practically do anything because they're not subject to the Landlord and Tenant Act.

What the bill does is create a right of a tenant to advertise their own premises unless the landlord provides a reasonable alternative method within the mobile home park. A new right is created for the tenant in a land-lease community or a mobile home park. That's a new right.

What happens if the landlord breaches that? If the landlord breaches that, the tenant has two possibilities. The tenant could, first of all, bring a court application under the Landlord and Tenant Act for an order permitting them to advertise their mobile home.

Mrs Marland: Can I ask you a question there, Paul?

Mr Wessinger: There is a second remedy too. There is a penalty provision in the act that if the landlord breaches the provisions of the section he is subject to a fine. So there are two remedies.

Mrs Marland: Does the Landlord and Tenant Act address signs?

Mr Wessinger: No, the Landlord and Tenant Act does not address signs.

Mrs Marland: You said their remedy is to bring a court action under the Landlord and Tenant Act.

Mr Wessinger: Well, Bill 21 addresses the problem; Bill 21 does, yes.

Mrs Marland: So you didn't mean what you said.

Mr Wessinger: Yes, I did mean what I said. Bill 21 addresses the problem of signs. It creates a statutory right and at the same time provides a penalty provision for anyone who breaches the provisions of the act.

The Chair: I think this may be an appropriate time to call the committee to adjourn, it being 12 of the clock.

Mrs Marland: I don't mind us adjourning, but I just want to clear this up with you, Paul: a court application under the Landlord and Tenant Act. That's what you said.

Mr Wessinger: Yes, they can.

Mrs Marland: In order to take a court application under the Landlord and Tenant Act, does the Landlord and Tenant Act not have to address that area that the court application applies to? I'm asking you, does the Landlord and Tenant Act address signs?

Mr Wessinger: It does not at present; it will only address it with Bill 21.

The Chair: We are in recess till 3:30 this afternoon or directly following routine proceedings.

The committee recessed from 1201 to 1559.

The Chair: The standing committee on general government will come to order. When we recessed this morning, we were discussing Mr Wessinger's amendment to section 11, and I believe I had Mr Daigeler and Mrs Marland on the list.

Mr Hans Daigeler (Nepean): If I remember what I was going to say, it was really with regard to the funda-

mental question as to whether this bill ought to go forward or not. I tried to get some assurance last week from the government that the Ministry of Housing was supporting it and I was enthusiastically assured that it would. Frankly, today when I heard Mr Wessinger talk I was less assured, because he clearly said it's his bill and the Ministry of Housing is only in support of it or providing resources as much as he needs it as a private member.

I think this is really the difficulty. I think on principle private members' ideas are a good idea and should be supported if we can, but this experience I think has been a difficult one.

I'm prepared, as I was last week, and I think my caucus is prepared—you know, the government is the government. If that's what they want to do, they have the majority. I really don't want, through procedural wranglings and somewhat extraneous tactics, to hold up the will of the government, if that's the majority.

I will be voting against it, but if the government carries it, well, it's their responsibility. It's the Minister of Housing's responsibility ultimately, and I think that's what we have said and kept saying, that this is really what it is. I think that's one of the difficulties.

Our Housing critic clearly has said that given the nature of this bill, it would have been the proper thing to do to introduce a government bill because it's of significance. It addresses an important concern that I think merits to be dealt with in that way. But since the government, I guess, is continuing to let the bill go forward, it's the responsibility of the government to proceed.

The Chair: Further discussion? Shall Mr Wessinger's amendment to section 11 of the bill carry? Carried.

Shall section 11, as amended, carry? Carried.

Now we come to section 16.

Mr Wessinger: There's one outstanding amendment that has been moved. Mr Chair, you did ask some questions concerning—

The Chair: This one's my fault.

Mr Wessinger: That's right. You're the one why this still exists and hasn't been passed. It's your question. I'd be very happy to have Ministry of Housing people answer, if you'd like, but I have discussed it with the Ministry of Housing, and basically the difficulty is that the Minister of Housing does have an interest in this bill, I think it's fair to say. She wants to preserve the power over the question of exercising the powers under the Rental Housing Protection Act in her own ministry. Otherwise, it would be under the appointments of the boards or under the Ministry of Municipal Affairs. That's the reason for it, so I would ask that the section be supported.

The Chair: That's sounds reasonable to me, but perhaps the staff could just help me understand how this works in the unorganized areas.

Mr Wessinger: Certainly.

Mr Morris: Just to give you a sort of overview of the local planning board process, the local planning boards are constituted to control planning in unorganized terri-

tories and where there are collections of municipalities.

The Planning Act greatly limits their powers. They are limited to the power of solely adopting official plans. They cannot approve official plans; they can adopt them. They have no zoning authority whatsoever. They're appointed by the Minister of Municipal Affairs for a period, which is similar to a municipal council, which is about three years.

Zoning in unorganized territories takes place through minister's zoning orders, and in a very limited number of cases, I don't exactly know how many, the local planning boards in unorganized territories in Ontario are given delegated authority to administer the minister's zoning orders.

Under proposed changes to the Planning Act, in theory, planning boards will have full zoning approval, but those have yet to be adopted.

The Chair: I happen to be familiar with the Manitoulin planning board, for example, which administers four or five unorganized townships, and they, in the name of the minister I think, have the power delegated for minister's zoning orders, if I recall correctly. All I'm really asking is if this doesn't create some difficulty for the local authorities to change that.

Mr Morris: No, not really because, as Mr Wessenger said, the Rental Housing Protection Act currently is administered through municipalities, through elected officials, and elected officials make decisions. Ultimately, the responsibility under planning orders is the Minister of Municipal Affairs'. The Manitoulin board is an exception. It does administer minister's zoning orders, but in the name of the Minister of Municipal Affairs.

The Chair: Just so members might understand, minister's zoning orders or amendments to minister's zoning orders actually are building permits in some instances.

Mr Morris: Often, that's right.

The Chair: I'm happy if you're happy, Noah. Further questions, comments, amendments to the amendment?

Mr Daigeler: Just to put on the record that some of the procedures that were followed, frankly, I don't really recommend to be followed in the future, like these private meetings that were being called are rather unhelpful, I think.

If Mr Wessenger wants to hold meetings, he of course is free to do so and should probably, but I don't think in any way, shape or form these external meetings to the committee should be considered part of the committee because some of the presenters now feel that we on the opposition side should have been at some of these meetings, which were strictly private meetings. I didn't think that was too good and I certainly wouldn't want to recommend that to any other committees in the future. I think if the presenter wants to hold meetings, that's fine, but clearly there was a confusion that arose. People thought it was an official meeting of the committee and then why weren't you there and everything else. I just don't think we should mix up the proper, formal meetings of this committee with any private meetings that individual members might want to call on their own behalf, which of course they're free to do.

Mr Wessenger: Thank you, Mr Daigeler. I would concur. It was not my intention to have these meetings. I was sort of pushed into it.

The Chair: Just to clarify for the record, these were not official committee meetings that are being spoken of and are not related to the committee, other than the proponent was holding meetings.

Mr Daigeler: I understand. We understand sometimes the procedures and the public doesn't quite and when they hear—

Mr Wessenger: I concur with you, Mr Daigeler.

Mr Daigeler: In fact, we have received letters that said they were sorry that the Liberals weren't there. Then I get a bit nervous.

The Chair: Thank you. Really, we're dealing with the amendment to 16(5). Further comments?

Shall Mr Wessenger's amendment to 16(5) carry? Carried.

Shall section 16, as amended, carry? Carried.

Section 26, questions, comments? Shall section 26 carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall the bill be reported to the Legislature? Agreed.

The committee will stand in adjournment till the call of the Chair.

The committee adjourned at 1610.

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Thursday 9 June 1994

Land Lease Statute Law Amendment Act, 1993, Bill 21, Mr Wessenger / Loi de 1993 modifiant des lois en ce qui concerne les terrains à bail, projet de loi 21, M. Wessenger G-1597

STANDING COMMITTEE ON GENERAL GOVERNMENT

***Chair / Président:** Brown, Michael A. (Algoma-Manitoulin L)

***Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)

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*Grandmaître, Bernard (Ottawa East/-Est L)

Johnson, David (Don Mills PC)

*Mammoliti, George (Yorkview ND)

*Mills, Gordon (Durham East/-Est ND)

Morrow, Mark (Wentworth East/-Est ND)

Sorbara, Gregory S. (York Centre L)

*Wessenger, Paul (Simcoe Centre ND)

White, Drummond (Durham Centre ND)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Carter, Jenny (Peterborough ND) for Mr Morrow

Fletcher, Derek (Guelph ND) for Mr Mammoliti

Marland, Margaret (Mississauga South/-Sud PC) for Mr David Johnson

Mathyssen, Irene (Middlesex ND) for Mr White

O'Connor, Larry (Durham-York ND) for Mr Morrow

Also taking part / Autres participants et participantes:

Ministry of Housing:

Lyle, Michael, legal counsel

Morris, Noah, policy adviser, existing housing stock, housing policy branch

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Filion, Sibylle, legislative counsel

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Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Monday 15 August 1994

Journal des débats (Hansard)

Lundi 15 août 1994

Standing committee on general government

Crown Forest
Sustainability Act, 1994

Comité permanent des affaires gouvernementales

Loi de 1994 sur la durabilité
des forêts de la Couronne

Chair: Michael A. Brown
Clerk: Franco Carrozza



Président : Michael A. Brown
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 15 August 1994

Lundi 15 août 1994

The committee met at 1004 in the Water Tower Inn, Sault Ste Marie.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Vice-Chair (Mr Hans Daigeler): The standing committee on general government is now in session. Welcome, everyone, to the beautiful city of Sault Ste Marie. It's a little bit cool, but I understand it's going to warm up outside, and inside hopefully not too much, but I think we'll be able to cope with it.

For those who are not familiar with the proceedings, we have the government side over here and then the official opposition and the third party.

This morning we will have briefings from the ministry, but first, however, the opening statements both from the parliamentary assistant and from the two official opposition critics. Then in the afternoon we will begin the hearings. Once we've completed the hearings here today, we'll be moving on to Espanola and then to North Bay this week.

I should also introduce the researcher, Lorraine Luski, from the parliamentary research office. From Hansard we have Pat Girouard, and Jim Petselis from the recording service, and we do have simultaneous translation for anyone who later on wishes to address the committee in French. Il y a la traduction simultanée, alors simplement parlez dans la langue que vous voulez. Alors, il y a les facilités qui sont disponibles.

Two business items before we get going with Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario: The first one is that on Thursday, for anyone who might think they are flying out from Timmins at 6:30 in the morning, as your ticket says, this is not the case. We're flying out at 4:40 in the afternoon. We're flying out after the business is done, not before, so your ticket is erroneous. I understand they'll let us on the plane anyway. It's not 6:30 am, it's 4:40 pm.

The second very important subject is that it's been suggested that before we move on to the bus for the three-and-a-half-hour ride to Espanola we have dinner here in the hotel after the proceedings this afternoon so that we leave about an hour or an hour and a half after 5

o'clock. Is that agreeable to the committee? We'll have supper here and then we'll leave, after supper is completed, by bus to Espanola.

I'm now pleased to ask the parliamentary assistant, Len Wood, to give some opening remarks with regard to the bill that is before us. These opening remarks will then be followed by opening statements from the two opposition critics and then we'll be moving into a technical briefing from ministry officials. I'll ask the parliamentary assistant, when the time comes, to introduce the officials.

Mr Len Wood (Cochrane North): Thank you very much, Mr Chair and members of the committee, for this opportunity to outline the significant elements of Bill 171, the Crown Forest Sustainability Act.

Bill 171 is perhaps the most important piece of legislation on forests that has ever been put forward in Ontario. It will take Ontario into a new period of sustainable forest management. With this legislation, Ontario will have the ability and necessary powers to ensure that forests are managed as a whole ecosystem and not just for the products that go into mills. Through this legislation we will be putting the forests first. We will be ensuring the long-term health of our forests and we will be developing an ecosystem approach to managing forests. By putting the health of our forests first, we will be able to make sure that we can sustain our forest industries, the jobs those industries provide and the many communities that forest industries support, while providing for a wide range of other economic and environmental values.

I have a major personal stake in sustaining the forests and jobs in northern communities like Sault Ste Marie. I have lived in the north for three and a half decades. For 20 of those years I worked on a shop floor as a millwright with Spruce Falls Power and Paper Co. For eight years of that I was president of the local Canadian Paperworkers Union. My wife and I raised and educated two daughters in Kapuskasing on the strengths and opportunities provided by the forest industry. Today we're grandparents, and we want to provide our grandchildren and the grandchildren of our neighbours with the same type of opportunities that were offered to us, and we want these opportunities to be located right here in the northeast in communities like Sault Ste Marie and Kapuskasing. For that reason, I'm delighted that the provincial government is acting on its commitment to sustain forests, jobs and communities in the north.

I can point proudly to my former employer, the Spruce Falls Power and Paper Co, as an important example of that commitment. As you know, the provincial government supported a buyout of the company by employees

and the local residents. In doing so, we helped to sustain 800 jobs that are vital to the survival of Kapuskasing. Less than three years later, the company is generating profits and expanding. This year a new sawmill complex has created a total of 126 new full-time jobs.

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Spruce Falls is just one of the several examples of our commitment to sustain forests, jobs and communities in the northeast. In Hearst, for example, the Ministry of Natural Resources staff are working with the Nord-Aski Economic Development Committee. They are identifying new markets for value added forest products and for new uses of underutilized forest resources. Also, near Hearst we're helping Constance Lake First Nation develop tending businesses that will increase the productivity of the forests. Near Cochrane we're helping the New Post First Nation develop tending businesses.

Bill 171 is the latest expression of our commitment to sustain forests, jobs and communities in the north. If we consider the economic and environmental importance of forestry to Ontario, we will see clearly why this legislation is so important, not only to the future of communities such as those that I've mentioned today but also to the province as a whole.

Forest industries in Ontario produce nearly \$12 billion annually in forest products for our economy. They are one of the most important segments of our economy. More than 200,000 jobs are tied to forest industries and nearly 50 communities depend on them for their economic stability.

The economic contribution of the forest industry is one of the many values that we must address. Ontario's vast forests provide habitats for a diversity of wildlife and ecosystems. They provide a wide variety of recreational opportunities for all Ontarians. Ontario's forests draw tourists from around the world, and for local citizens they are an invaluable cultural resource as well as a mainstay of the economy.

The introduction of Bill 171 builds on a series of initiatives undertaken by this government to learn more about the forest and to develop the tools needed to improve forest management and develop an ecosystem approach to managing forests. In all our actions, we're clearly establishing ourselves as a government that is ready to make the decisions and changes needed to improve forest management.

I want to take a moment now to outline some of the actions that have led to the development of Bill 171.

This government has adopted the province's first policy framework for sustainable forests. It is a historic first for Ontario. It marks the first time we've had a sustainable forest policy and a clear direction that we must manage for all forest values. The policy framework will make Ontario a North American leader in ensuring the long-term health of the forest ecosystems.

The policy framework builds on the recommendations the Ontario forest policy panel made regarding comprehensive forest policy framework for the province. Its goal, to quote the framework, is "to ensure the long-term health of our forest ecosystems, while enabling present

and future generations to meet their material and social needs."

The policy framework brings us closer to our vision of sustainable forestry, but we need to take the theory and put it into practice today. Bill 171 give us the means to do that.

Another of our actions was to commission an audit by an independent committee to determine the success of regeneration of the boreal forest. The audit told us that while the boreal forest is generating well, there is still room for improvement. This act will enable us to make the necessary improvements.

One of the key improvements will be on how we pay for forest renewal. The government is committed to full renewal of all harvested areas and we are committed to making sure renewal is done to high standards. Among other findings, the independent audit committee told us that uncertainty about funding for forest renewal is a long-standing concern. In response to this concern, the committee recommended that before harvest is conducted, forest managers should know what funds will be available to reforest the areas they are cutting. With this new legislation, we are responding to that concern as strongly as possible.

This act will establish a forest renewal trust fund to make sure that funding for forest renewal is secure and that this money is dedicated to the task of renewing our forests. Large forest companies will pay directly into this renewal trust fund so that money is always available to renew the forests they harvest. This kind of improvement has been long needed in Ontario and we are ready to make sure it happens.

This act also responds to the concerns about forest renewal in another way. It will require that forest management plans, work schedules and prescriptions are in place before any harvesting operations are conducted in the forests. This means that we will identify how a forest can be renewed before the forest is harvested, one of the many improvements in forest management in Ontario.

I mentioned the forest renewal trust fund. The act will also set up a second type of trust fund, known as the forestry futures trust fund, to ensure that money is always available to pay for the renewal of forests that have been destroyed or damaged by wildfire, insects or other natural causes. In the unlikely event that a company goes out of business, this fund will provide the money to renew areas that the company has harvested.

Again the money for this trust fund will be paid directly by forest companies into the trust fund to ensure it remains dedicated to renewal. Through this provision in the act, we will be making good forest management the law.

Ministers and governments will be accountable for ensuring the sustainability, because the act clearly states that the minister shall not "approve a forest management plan unless...satisfied that" the plan "provides for the sustainability of the...forest." These plans will be developed using improved standards for sustaining our forests.

With this act, we will be able to continue the development of our ecosystem approach to managing forests

because the legislation will require forest companies to provide more detailed information about the forest. With better information, we can do a better job of planning.

The act will bring about a new age of accountability. MNR and forest companies will be accountable through forest management planning, which is a public activity with opportunities for public input. Local citizens' committees will be set up to enhance cooperation between local communities and forest industries and further improving the public input.

The province and the forest industries will be required to report regularly to the public on how their forests are being managed so that the people will be able to judge for themselves whether our forests are being managed properly. Through the act, independent audits will be undertaken to review the performance of government and forest industries. These audits will be done regularly and will be made public.

Another element of accountability is enforcement. Here we will make a significant improvement in our ability to hold people accountable for how they operate in the forest. The act will establish strong enforcement procedures and an incremental process for compliance to make sure forest operations are carried out properly.

For those who don't follow the rules in the forest, there will be strong penalties. Penalties will fit the problem, and repeated problems will be dealt with more severely. Administrative penalties range from \$2,000 for a minor violation up to \$15,000. These fines will be imposed by MNR. For more serious offences, the courts will be able to impose fines as high as \$1 million.

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The \$1 million fine could apply to anyone who refuses to comply with a stop-work order issued under the act. Such orders would stop operations that are causing or are likely to cause loss or damage that impairs the sustainability of the crown forest. The stop-work order is another important new feature of the act. And in addition to being able to order a stop to work, MNR will be able to order a company to undertake remedial action to repair damage and to pay the full cost of remedial work.

Before concluding, I'd like to outline the public support for the course we are pursuing. Earlier I mentioned the work of the Ontario forest policy panel. The panel travelled the province, speaking to 3,000 people about the importance of our forests to society. To me, the response of people who participated in the panel's consultation is a signal that the public is concerned and interested in how our forests are managed. We have responded to the interest and the desire to be involved, first with a policy framework and now with this act that puts our goals for sustainable forests into practice.

That's why I strongly support our efforts to pass Bill 171, which is crucial to ensuring the long-term health of our forests. Bill 171 is essential to the economic health and wellbeing of communities like my home, Kapuskasing, and the city of Sault Ste Marie, our host today.

The Vice-Chair: Thank you for your opening remarks. Now, Mr Mike Brown, the critic for the official opposition.

Mr Michael A. Brown (Algoma-Manitoulin): I'd like to thank the parliamentary assistant for somewhat enlightening us as to what the government thinks this bill is about.

As I start my comments, I think it's only reasonable to talk about the state of the forests and what has been happening with the state of the forests since this government came to power.

Since this government came to power, we've seen a 30% reduction in the amount of reforestation in the province of Ontario, a 30% reduction in the amount of trees being planted in the crown forests. We've also seen a remarkable 50% reduction in the amount of tending that goes on in the forests, and as members are aware, certainly my northern colleagues, if you do not tend a forest after replanting you stand a great chance of losing all your good work.

So we have seen a government that has moved away from good forest practices for the last four years. We are pleased at this point to see that they are bringing a bill before the Legislature that will, in our view, if properly done, again provide Ontario with a reforestation policy, with a forest policy, with an ecosystem-based policy, after the regression of the last four years of this government's activity.

I would also point out that during the government's backing away from its commitment to the forest, it has also already raised significantly the fees to people operating in the forest. We've seen a doubling of the area fees. We've seen significant increases already in the amount of stumpage. At the same time, the government was spending less and less money in the forest, so some guarantee, I think everyone would agree, that the money taken from the forest will be replaced back into the forest is something we can support.

Our problem initially is somewhat of a process problem. The problem is that Bill 171 is a very, very vague piece of legislation. It is very permissive, and we understand the need for the legislation to be flexible and to react to changing methodology in forestation etc.

To understand what the government intends, therefore, it was necessary to have copies of the regulations, copies of the manuals, to understand how all the fine and lovely words the parliamentary assistant has just put before us in terms of how we're moving into this brave new frontier actually is going to happen. To that end, two weeks ago the committee received this material, which we appreciate greatly.

Unfortunately, I'm not a forester and I don't pretend to understand what is in these manuals, as much as I would love to. I look forward to the hearings, as this is fleshed out, and I look forward to the ministry trying to help us understand what's in these manuals. But I would have to say to the Chair that we've had many inquiries from people who are interested in Ontario's forests saying they either haven't received these—and these are people who are going to present to us—or received them at such a late date they are not sure they can digest these hundreds of pages of material in time for the committee to understand, which I think all members need, to have the people who are directly affected by these regulations and

manuals tell us how it will affect their operations.

The first reservation I am putting forward about this legislation is that I'm not certain the committee hearings will be as fruitful as they could be, given the fact that there is very limited opportunity for many people to come before this committee and give us their best shot at how this affects them. I'm sure that for us to do our job as legislators, to make improvements to this bill, we need the best advice possible. We need the advice from people who are directly affected. I am somewhat—well, I'm more than somewhat; I'm very unhappy that people have not had a chance to thoroughly review the manuals and the regulations.

But moving on from that first concern, we have a number of others, and there may be more as we go through.

The first one relates to the suggestion by the Forest Industry Action Group that an allowable cut in Ontario's forests could be increased by up to 50%. The environmental assessment has also suggested that there is much wood out there that could be harvested in a sustainable way and that hasn't been allocated yet. We know the bill speaks somewhat to this issue, but we don't understand what criteria will be followed, and nowhere in the regulations or manuals or in the bill itself do we see an understanding of what criteria will be placed against proposals to harvest additional wood. We also don't know what the government's attitude is towards the forest action group's suggestion that there's 50% more fibre to be harvested. We don't know whether they believe that, whether they don't believe that, and how it will be allocated. For many northern communities, in fact for the whole province, that's an issue that is very important to employment, to the good of the province.

So we will be interested and we will be asking questions of the ministry people later on to determine how that additional fibre is to be allocated, what criteria they're placing, so that people who have plans for either increasing capacity or even in some cases maintaining their production at current levels will be able to put proposals to the ministry, and how they will be judged by the ministry. I think those are very important issues.

We have a concern about tenure. We have heard from people who are presently involved in the forest management agreements who are very concerned that, unlike the previous piece of legislation, there is no guarantee of tenure in this particular piece of legislation. That is of course of great concern to those companies. If you are required to look after a forest in Ontario, if you are required to do the renewal, if you are required to do a lot of things and make capital investment to take advantage of that, I think you want to know down the road that that will be yours.

I want to give a recent example that I'm familiar with just through my own constituency work, and I'm sure the member for Cochrane South will be aware of this one also. It is the recent experience of E.B. Eddy on the FMA, two FMAs, they hold north of Espanola and running up towards the Timmins area.

There was an infestation of budworm. Eddy, the company, went to MNR and worked with MNR, and

MNR was very active in working with them in order to put a spray program together to control this pest that destroys forests.

1030

At the end of the day, MNR decided that it would be permissible for Eddy to spray, at their own expense, the forest that is on their holdings. Unfortunately, and I believe the number's around 10,000 hectares but I could be wrong, the same infestation occurred on crown land units. The government, in its wisdom, allowed those trees to be infested. It did not do anything to stop it.

The moral of the story is that Eddy, having tenure, decided that it was important, for their forest, to spray. The question is: If their tenure wasn't guaranteed would they have done it? I'm not sure they would have done it.

The government didn't do it. If it's just crown land, I guess the government can say: "Gee, we don't have enough money. Too bad, so sad. The forest will have to bear this infestation." On the other hand, somebody with an interest in that land went out and spent about \$1 million of their money—money that by their agreement with the government was supposed to come from the government, but because the government chose not to do it, Eddy themselves decided to do it.

I'm sure there are examples of that happening in the forest industry all along, but they will only occur if there is some guarantee of tenure. I think that's an important point that we would like clarified.

We are also interested in another issue, and that's the local citizens' advisory committees. We think that's a good idea. Unfortunately, we have not been able to determine—again, maybe the ministry staff can help us in knowing what the criteria for appointment is—who is on these boards, how they get there.

That is a critical notion because if they are not a balanced board we could have industry, for example, control them, and I don't believe that would necessarily be in the interests of the people of Ontario; we could have some other group with some other agenda control them, and I do not believe that would necessarily be in the best interests of the province of Ontario. So we will be looking for a clarification of the criteria for people sitting on local advisory boards, or community advisory boards, and we think the ministry should be able to help us with that.

We want to raise a concern about the Environmental Bill of Rights. We would like to know, and it is far from clear, whether the Environmental Bill of Rights applies to this legislation. Again, we're hopeful that the ministry, in their briefing, will be able to tell us whether in fact the Environmental Bill of Rights applies to this legislation.

Having briefly—well, over a period of days—looked at these manuals and the regulations, we're perplexed because we don't understand what kind of cost-benefit analysis has been done. We want to know what these regulations cost the forest companies and the province itself to administer and what benefit we get for spending additional money if in fact additional money is spent.

I'm hopeful that the ministry will be able to tell us what additional costs they believe will be incurred not

only by the forest companies, but by the ministry staff—there's a lot of other people besides forest companies obviously involved here. We want to know what impact it will have on tourism, on the NODA members. We want to know what kind of impact it will have on hunting and angling.

There are a large variety of interests in the forests besides the forest companies, and we want to know what kind of impact it will have on them when increased costs—how it might affect the way people do business in the forest today. We have seen nothing of all that.

Despite the parliamentary assistant's chatter about sustainability and the ecosystem approach, we are very unclear about what exactly we are trying to maintain. What are we trying to sustain? What is an ecosystem? How does this all work? For example, are we attempting, when we harvest the forest, to have the same forest replace it, and why the same forest?

In many cases, probably in the majority of cases, we're talking about second cuts. This is not the first time that many forests have been cut over. We want to know, why do you want to put jack pine in that particular area when maybe that wasn't the original species? We want to understand how this all comes to play.

It's great to throw around the buzzwords of the 1990s in terms of sustainability and ecosystem approach and all those nice-sounding things, but we want to know, where the rubber hits the road, how does this really work and what is it you're really talking about? Again, we would be asking the ministry to clarify that when it comes before us in the briefing, and the parliamentary assistant can be of some assistance, I hope, in answering those questions.

We are likewise concerned: We understand at least somewhat how the new "business arrangement" works as it relates to forest management agreements. We understand that essentially it's fairly close to what has happened before, other than in this case there's the trust fund, which we think is a good idea. But we don't understand at all, and we'll be looking for help, how this works on crown management units. Much of Ontario's forests are managed under crown management units, not under forest management agreements, and we don't understand how the trust funds, regeneration, cutting, forestry in general will work on those crown management units, and have to this point not gotten answers that we think are satisfactory.

I want to just mention that I'm a northerner. My two colleagues here are northerners. We represent ridings from the Quebec border to the Manitoba border. Our communities depend on the forest. I think all of us have mills in our areas; all of us have tourist operators in our areas; all of us have provincial parks in our areas; all of us have first nations in our areas; all of us have the same concerns about managing this renewable resource in the best possible way for the people of Ontario.

There are many facets, and over the next three weeks of hearings I think we, as members, will probably come to understand more and more about the impact of forestry and what goes on in the forest from many different views. We, the Liberal caucus, published a paper last

year, talking about sustainable jobs and sustainable forestry and the criteria within that. Clearly we believe, as Liberals, that the forest can be renewed, that the forest can be harvested, that economic and environmental activity can go on in this province for eternity, provided we are proper stewards of this resource.

We will work with the government as much as we can to improve this legislation and ask the appropriate questions at the appropriate times in order that we get a piece of legislation that lives up to the parliamentary assistant's billing.

The Vice-Chair: Thank you, Mr Brown. Now the Progressive Conservative critic, Mr Chris Hodgson.

Mr Chris Hodgson (Victoria-Haliburton): Thank you very much, Mr Chair. It's a pleasure to be in northern Ontario. It's a real opportunity to be able to travel across the northern part of the province and find out what concerns the people who live and earn a living from forestry have in regard to this bill of forest sustainability. I'd like to thank the parliamentary assistant for outlining the government's intent on this bill.

I would just like to say that on behalf of myself and the party, I'd like to thank the minister and the minister's staff for the open process. The ministry top staff came over and briefed us on the impact of this bill and some of the details. I'd like to thank all the people who are attending today and the people who are going to attend throughout the next two weeks in northern Ontario, and again back in Toronto for the public hearings. I realize that most people have busy schedules and I really appreciate their taking the time to come out and inform us of their concerns so that we can hopefully work with the government and make positive amendments to ensure that our forests are sustainable and that they do sustain jobs in our communities.

1040

I personally come from an area that has a mixed economy of lumbering and tourism. This bill, while it's not solely dealing with all the forest industry—it's dealing with the crown land—is being billed as a sustainable forest act. Part of the reason for this that wasn't mentioned by the parliamentary assistant but has been mentioned before by the minister is that we want to send a message to the world that products coming out of Ontario come from sustainable forests, and this is particularly important to our markets in Europe.

We in Ontario have a doubly difficult job in doing this. People from Europe don't distinguish between parts of Canada, so we have to inform them and say that our forestry practices are somewhat different than maybe other parts of Canada. From a marketing point of view, I believe the Ontario government's got a challenge ahead of it. I think in cooperation with the industry we can meet that.

The concern we have is that we don't rush into this. Some in the industry would say, "Well, the crown timber EAs have been going on for six years." It's been an open process and I'd like to see that continue.

The manuals that the critic from the Liberal Party mentioned are quite detailed. I believe this is only the

second draft, and there's a lot of detail that has to be added yet. I would encourage a second workshop to be done at the end of these hearings. That doesn't mean that I'm asking for a delay past the fall for third reading, but I think that a second workshop at the end of public hearings would be helpful, seeing how a lot of the detail, as I read it, is to be filled in as we go.

The sustainability, as a concept itself, has to live up to the rhetoric. As I mentioned in the House, and this is an issue that's more of a concern in central Ontario than in the north, there is the private forest aspect. All the timber products coming out of Ontario are going to be sold as coming from sustainable forests. Some 80% of the timber comes from crown land and most of it from up here in the north. Some 20%, or 5 million cubic metres of board feet, comes from private lands. This government has cancelled, without notice, the private managed forest tax rebate. I'm assured by the minister, not only to myself but to the House, that by the fall there will be a template of some type of redress to this to allow that all the forests that produce timber will be sustainable in the future. I'm looking forward to seeing that.

As the minister has pointed out, we're going to deal with the crown land first and then address the private. I understand and I'm aware of, and our party's been very involved in the past with, the role that forestry plays in northern Ontario. I appreciate the efforts of the ministry to try to make it more than just wood that comes off the forest for its value. We have a great interest in seeing the tourism economy and all the uses of the forest incorporated.

The manuals have to be flexible to reflect the different areas of Ontario, but I have some concerns. With the bill itself, it's enabling legislation, and it's been mentioned before that it's rather vague and it's got a lot of motherhood statements which we agree with. In broad scope, we're in agreement that the Crown Timber Act needed to be modernized and improved. I think there's general agreement and consensus on the goals set forth in this bill. It's in the detail where we have some concerns, and that's why I'm looking forward to all the presentations that we're going to hear in the next couple of weeks.

In some of the concerns, as a party, the PCs, we've been concentrating on how to make Ontario more competitive, how we can sustain jobs in our community, which is the second part of this bill, not only future use of the forests as an ecosystem, but to sustain economic viability of our communities here in northern Ontario and central Ontario. Competitiveness is the heart of that. To sustain jobs in the future, we're going to have to be competitive with neighbouring jurisdictions like Michigan and places like that.

If this bill is done properly, it should enable us to be competitive, to secure tenure, to have access to wood products, to have multi-use of our forests to encourage tourism and hunting and recreational activities in northern Ontario.

That's the goal and I intend to work towards that. The government record in terms of forestry has been outlined by the critic of the Liberals; I don't need to repeat that. I would just like to say that there were campaign prom-

ises made back in 1990, long before my time, that talked about four-laning the Trans-Canada Highway and a lot of northern development, which hasn't happened. So hopefully, with this forest sustainability, it will help the north in some way in the last four years.

We have concerns, in terms of access and tenure, about the large companies getting tenure and the first rights of refusal, that that be done consistently and fairly throughout the province. We also have concerns for the independents. When you're talking about a sustainable economy, a large part of our economy is made up of one- to 10-person operations that need to have stability in their access to timber, and I'd like to see some type of provision put in here where people are unorganized. We often hear from the big special interests, but a lot of the people who work in the forest industry are jobbers, independents who work hard, long hours, and they find it hard to take time off to come into committee meetings that are held in the daytime or just to pull together the resources to type up a finished report that hopefully somebody will read. I would like to see some provisions put in here that independents are secure in their sustainability, their jobs in the future.

I'm interested in hearing the comments on the enforcement. The whole issue around these citizen groups of multi-use of the forests and competing interests, determining what will be the best forest plan in the future: In the manual, so far I haven't found where it sets out the criteria for appointment, if they are to be appointed, who's to be appointed, are we just taking special-interest groups, are we just sticking with the communities involved, what are the criteria involved in the makeup of these committees, and what power will these committees have?

If we're looking at multi-use of the forest, what will be the criteria on the use? Will it be strictly votes or will there be a process where we ascribe a value to the timber? That's easy to do, but do you ascribe a value to moose or fish? I've read some studies where they've taken five, six or seven different factors and they try to ascribe values to them and then they try to see what the cost-benefit analysis is of the forest rotation. Of the studies that I've seen, it comes out very close to what the forestry's guide in existence already produces. In some instances it's shortened up the rotation period, but will there be criteria set down that these committees are to follow? That would give the flexibility for different areas of the province of Ontario.

Part of the problem with trying to set criteria like that is that the ministry doesn't have any scientific proof, what we have in the value of forests. We can tell what the economic impact is if we cut a stand of white pine. To determine what the rotation factor is for a forest in relationship to the moose population, I understand we're still doing those studies. We don't have it down to a science yet. So there are going to be grey areas and what priority takes precedence over the use of the forest, and these committees will become important in that regard.

I understand that a lot of the companies that operate up here already take a lot of these things into consideration. It becomes a question of dollars and cents and it goes

back to the question of compatibility. So I want to see that addressed, and I'm interested to hear what the people who actually live here and work in the industry have to say about that.

The cost-benefit analysis: We as a party would like to see that as well, not only in terms of what the forest companies have to pay in the new—how the audits are going to be paid. Is that going to be downloaded on to the forest companies or is that included in the minister's discretion for spending under the forest renewal fund? Is that part of the futures fund, the money to be spent, the audits?

I'd like to see what the analysis is of the ministry for the costs to the provincial government, both in the short term and the long term, and how this act, I guess it's enabling legislation that allows for the implementation of the Carman exercise to become complete if they can reach a negotiated settlement on the additional tax above the two trust funds to be set up, and the stumpage fee.

In general, I would just like to applaud the government for the ecosystem approach and say that we as a party have been calling for things like the trust funds to be set up to ensure that there's money in place for the renewal and replanting of the silviculture of our forests. We're very aware of the importance that the forests play in our communities and in our lifestyle, but also in terms of our economy of Ontario in terms of recreation, tourism and the forestry industry itself.

The consultation, both now and once the bill becomes law, must be meaningful and must include the primary stakeholders. We've had experiences in this province—I think most recently of the Keep it Wild campaigns in some areas, where they've been implemented without any public consultation or very little, or changes to the fishing- and tourist-based economy, the fishing seasons or the limits, without any consultation or very little consultation. I'm hoping and all indications are that this has been an open process to now and it will continue to be so.

The problem with the manuals is that they're quite voluminous to start with and they have to be flexible. So I'm willing to give the ministry the benefit of the doubt and hopefully we can get these out to all the interested stakeholders and work with them as they're being developed and fleshed out.

I would just like to remind the minister of his promise to recognize the private forests as well as the crown. Gary Carr and I look forward to meeting many people from the north and visiting the villages and hopefully making this an improvement for the economy of northern Ontario as well as all of Ontario.

1050

The Vice-Chair: Mr Wood, if you want to respond, now is the time, and then perhaps you want to move on to the technical briefing by the ministry.

Mr Wood: Yes, I'll be very brief before I turn it over to our ministry people. I'm not going to try to address all of the questions that were raised by my good friend, Mike Brown, and Chris.

The trust fund is a way of providing guaranteed funding, the way we see it, that hasn't been there by any

other government. It's for forest renewal, and this is the third government in the last 10 years that's been struggling with this and we feel that with the area charges and the funds and that, there's going to be a fund set up now. As I think we pointed out in second reading, myself and Howard Hampton and Bud Wildman, this year I believe it's \$189 million that's going to be going into it, when you take the MNR's portion that goes into it.

The manuals, there's no doubt about it, there are a lot of pages, there's a lot of material in there. The effort was made when we talked about it in the subcommittee to get them out in as timely a fashion as possible, realizing that we were into a civic holiday at the same time, and I understand that people are receiving the manuals and have had a chance to look at them. With people on vacation and one thing and another, I understand that it could be not as timely as what it might be when everybody's at work, but the attempt was made to get them out so that they would have a couple of weeks before the hearing started today.

When we talk about long-term sustainable wood supplies, we've made three announcements in the last little while: a new operation in Wawa, one in Kenora and one in Thunder Bay using the hardwood species that we felt there was a surplus out there. It's going to help out all of these communities to create new jobs and it's long-term investment on the part of these companies.

We have brought in the timber EA decision which is legally binding on the MNR and it sets a direction on how the committees should be set up and who should be on the committees and I'm sure that MNR is going to be involved in that.

As was mentioned, a commitment was made on first and second reading, I guess, that private lands would be looked at this summer and into the fall and that by the end of the year we should have more information that I'm sure you'd be pleased with, Chris and Mike.

One of the things Mike raised in his opening remarks was the dollars out there. Every government has been struggling with dollars, as to how you manage them and which ministry gets dollars and which ministry doesn't get dollars. When you look at hospitals, schools, municipalities, forests, who is going to be able to make the strongest pitch? A building can go up in a matter of a short period of time, and you can look at that as an example. When you're renewing forests, some of it takes 90 years, so you don't see the results of it until a long way down the road.

As I said before, the three governments that have been in power in the last 10 years have been faced with that: new highways, new hospitals, new schools and other buildings that have to be put out there. But with the two forestry funds which were covered under the budget bill in June, it's legislation that has been passed and has had third reading, so they're there and the guarantee is there that there will be money flowing into renewing the forests.

With that, maybe I'll introduce David Balsillie, who is the assistant deputy minister of—

Mr Brown: Mr Chair, just before we move on, I have

a question of the parliamentary assistant, or perhaps actually of yourself. I wrote to the Chair on August 5 asking that he distribute or see that the ministry distribute copies of the regulations and manuals. It's just a question of, has this been done? Has the committee been made aware by the ministry? All the presenters who are coming before us, have they had the manuals and the regulations, and, if so, for how long?

The Vice-Chair: You're referring to the letter, a copy of which was distributed this morning. Mr Wood, did you want to respond to that?

Mr Wood: I saw the letter and I understand that the manuals and regulations are available and have been mailed out and we have copies here that people can look at as well when they're making their presentations or before they make their presentations, so I understand that has been taken care of.

I'd like to call on Dr David Balsillie. He's assistant deputy minister of MNR's policy and program division. He has a number of people he would like to introduce for technical briefing, if you want to come forward to the chairs we have here and introduce your people who are going to be making the presentation.

MINISTRY OF NATURAL RESOURCES

Dr David Balsillie: Good morning, everyone. As was indicated, my name is David Balsillie. I am the assistant deputy minister, policy and program division of the Ministry of Natural Resources. With me is Mr Bob Elliott, who is the director of our terrestrial ecosystems branch and has been involved in the development of the manuals and will speak to the manuals this morning. Mr David McGowan has been involved in the development of the regulations and he will speak to regulation development this morning. Mr Ken Cleary has been what we call the head of the core team with regard to the development of the entire Crown Forest Sustainability Act. He will be speaking to the process of developing the act and the content of the act.

1100

I have a few opening remarks to put the Crown Forest Sustainability Act into context. We have some overheads, and hopefully the committee members will be able to see them from their places, in order to assist in visualizing some of the things which we want to be able to speak to you about today.

This act is one which is designed to replace the Crown Timber Act, which was put in place in 1952 and has long needed an overhaul. As was mentioned by Len Wood, the act grew out of our sustainable forest policy and the development of that sustainable forest policy, which was undertaken to develop a framework policy which is designed to lead other more specific forest policy development. It was developed, as Len Wood said, by a policy panel, and it was based on province-wide consultation. Approximately 3,000 briefs were submitted to the panel.

The panel was composed of Peter Duinker of Lakehead University, Margaret Wanlin of the Quetico Centre, Tom Clark, a consulting biologist, and Fred Miron from the International Woodworkers of America. I believe most of these panel members will be addressing the committee

during these hearings, and you'll hear at first hand from them some of the observations which they had as they criss-crossed this province.

They produced a widely accepted report in June 1993 called *Diversity: Forests, People, Communities*. Based on this report, MNR developed and released what we call the Policy Framework for Sustainable Forests. That framework policy contains, as is indicated on the overhead, the goals for Ontario's forests, principles for sustaining forests, strategic objectives for community and resource use sustainability, principles for decision-making and essential steps towards ecosystem management. These principles are now contained within the act.

The question then was, why did we need new legislation to replace the Crown Timber Act? It was needed in order to support the ministry's goals of ecosystem management, biodiversity conservation and forest sustainability. We want to move away from strictly timber management to total forest management and take into account a number of those other values that have been mentioned this morning.

We want to provide a legislative framework to help the government deliver on the various sustainable forestry initiatives, one of which was the policy framework; others are the alternative silviculture methods, the independent audits and community forests. We want to assist in providing a stable economic environment for forest industry and communities and clearly define the roles and responsibility for users dependent on the forest resources.

We want to move to an increased emphasis on a results-oriented approach. In other words, we're looking for outputs rather than inputs. We'll be looking for free-to-grow forests rather than the number of trees planted, because, as has been pointed out already this morning, although you may plant a number of trees, they may never reach free-to-grow forests if they're not tended properly. Therefore, we might have a false sense of security that we've planted enough trees but they didn't come through to free-to-grow forests. We want to incorporate those elements of the existing Crown Timber Act which are in tune with this new direction, and those have been lifted from the old act into the new.

There has also been discussion about supporting the new business relationship with the forest industry, now commonly called the Carman exercise, and the development of trust funds and a new stumpage system and as well the final decision of the environmental assessment for timber management, which contains some 125 legally binding terms and conditions which we need to implement.

Also, as has been pointed out this morning, we need to provide assurances to the world community, client groups and partners that our forest resources are being properly managed, and we need to be able to guarantee that forest products which are going to be exported from our forests need to be able to be shown to be from sustainably managed forests in order to achieve the ecolabel marking which will make them marketable in the United States and Europe; and, finally, to establish a framework for a more proactive approach to resource management and a greater local involvement in forest management through

such things as the local citizens' committees.

Therefore, the act is seen as tying together a number of things so they're linked to our sustainable forestry initiatives, to the new government-industry business relationship, to the terms and conditions of the timber management class EA. It ties in with the Environmental Bill of Rights and the work that's being done there. It's looking at the action plan of the Forest Industry Action Group which was set out in the report called *Hard Choices—Bright Prospects*. We're looking to implement some of those recommendations. There is a crown land planning review under way. It's going to be necessary in order to be able to manage forests in a sustainable fashion. We need to stay in tune with Keep it Wild or our endangered spaces program, which calls for withdrawals of ecologically representative areas for protection in the future.

I just want to quickly touch on the provisions of the act and then I'll turn it over to the other folks for more detailed discussion of the act, the manuals and the regulations.

The act calls for:

(a) Establishment of standards for the management of crown forests, that is, silviculture and performance measures; protection of forest-related values and ecosystem health; information collection and management standards.

(b) Development of forest management plans for crown forests. The new forest management plans will replace the long-standing timber management plans which have been in place for a long time. The act will talk about the content and duration, information collection and reporting, planning methodologies and procedures, public involvement in planning, implementation of plans. These plans must conform to higher-level land use plans.

(c) Setting out of requirements for compliance monitoring and reporting as well as a penalties regime. There will be monitoring and reporting requirements and record-keeping requirements, the penalty structure as set out in the act. There will be a requirement for periodic independent audits. There will be the opportunity for the minister to take corrective action or remedial action where necessary and charge offenders for the cost of that remedial action. There will be state-of-the-forest reporting to the Legislature on a regular basis.

(d) Resource pricing, fees, charging royalty and licensing regimes. Timber use and use beyond forest extraction will be licensed. There will be the ability for the minister to reallocate what's considered to be excess timber and there will be the establishment of trust funds and other financial mechanisms.

(e) There will be the opportunity for new partner and tenure relationships to allow cooperatives, local forest authorities or community forests. There will be the opportunity for comanagement agreements with aboriginal people. There will be research partnerships. There will be the authority to delegate approvals for components of plans and small-scale licences.

(f) The ability to create committees and boards, to assist in the development of forest policies and standards, development and monitoring of implementation of forest

plans, managing the independent forest audits and dispute resolution and appeal mechanisms.

(g) There will be an enabling clause for compensation in dealing with specific cases of allocation reduction or for loss of past capital investments such as roadbuilding and mill construction.

Finally, it's important for us to be seen as managing Ontario's crown forests such that products could be certified as coming from sustainable forests for exports abroad. That's extremely important. We feel that ultimately the marketplace will drive us to managing forests in a sustainable fashion.

That's a quick introduction and hopefully puts the act into context with a number of other issues which are going on. Now we'd like to continue with the briefing.

1110

Mr Ken Cleary: Thank you, David. My name is Ken Cleary. I am the manager, program development, renewable resources, with the resources stewardship and development branch of the Ministry of Natural Resources.

Mr Chairman, committee members, good morning and welcome to Sault Ste Marie. As a ministry employee, contributing to this legislation has provided a rare opportunity, and as a resident of Sault Ste Marie, I appreciate being able to address the committee in this location. I will provide you with an overview of this legislation and give some insight into how it improves the existing Crown Timber Act.

As stated, the purpose of this act is "to provide for the sustainability of crown forests and, in accordance with that objective, to manage crown forests to meet social, economic and environmental needs of present and future generations."

Simply put, the Crown Forest Sustainability Act should provide the legislative authority to make the public forest sustainable and from that sustainable forest provide the opportunity to realize the benefits of sustainable environments, sustainable forest-related industries and sustainable forest-dependent communities.

Understanding the content of an act that is focused on the fundamental way we manage our forest and use that forest is not an easy task. It is easy to become impatient with the vast majority of people who simply want some assurance that the forest is being properly managed. The other trap is to explain the act in such detail that you leave the audience equally confused. I hope this presentation this morning finds some middle ground.

There are four central concepts in this act which will move us towards forest sustainability. These concepts are information and planning about the forest ecosystem; responsible stewardship; accountability for forest management actions and decisions; and compliance with rules, guidelines and standards. Supporting these concepts are the specific elements of the act.

We have illustrated these elements with a series of icons which represent the key provisions of the bill, such as information, forest management plans, licences, trust funds and local citizens' committees, to name a few. Through this presentation, I will attempt to explain how these elements of the act support the four concepts that I

have listed. This act replaces the Crown Timber Act.

The Crown Forest Sustainability Act has 10 major parts. The act contains a purpose statement which captures the broad objectives of the ministry's forest policy framework.

This act will bind the crown.

The act applies to crown forest but excludes provincial parks except for forestry activities inside Algonquin Provincial Park, which will be guided by the general provisions of this act.

Forest sustainability will be determined by the principles and objectives which will be detailed in the Forest Management Planning Manual.

The definitions section of this act is structured to focus on an ecosystem approach to forest management planning.

Forest resources are defined, for now, as trees, with the potential to designate other vegetation and other uses in the future.

This act will respect existing and future rights of aboriginal people.

In the development of this act, the government recognized the fundamental need for legislation which placed a priority emphasis on information and planning. Over the past few years the ministry has completed extensive public consultation around major policy initiatives, such as the comprehensive forest policy framework and the environmental assessment on timber management activities.

It has become clear that good information about the forest ecosystem must be the starting place for any natural resources planning process. Because the act is more than about trees, we will collect a range of data. This will include wild life habitat, wild life populations, trees, other vegetation, users of the forest and natural and human heritage values. We refer to these data collectively as forest information.

Forest information is tempered and refined through an ever-increasing knowledge of the forest and a continuing focus on pure and applied research. In the long term, this information will contribute to an understanding of forest ecosystems which will allow us to make decisions on forest uses that are based on fact and science.

Specifically, forest information provides the basis for developing and implementing sound forest management plans. These plans lead to annual work schedules which set out the what, where and how of forest operations and forest prescriptions which will describe the existing forests and the steps required to renew those forests.

All of these planning elements are mandatory requirements under this legislation which must be in place before any activity can begin. The plan and its attendant documents lead to approved forest activities such as harvesting, which is planned and appropriate, and renewal, which is also planned, funded and meets the objectives set out in the forest management plan.

Part II of this act contains the provisions for forest management planning and information.

For planning purposes, areas of forest ecosystems will be designated as management units. Forest management

plans will be required for all designated management units.

Plans, work schedules and eventually forest prescriptions must be certified by a registered professional forester.

The minister will have ultimate authority to approve and amend plans and work schedules.

The Forest Management Planning Manual will guide the preparation of plans.

There are provisions for appeals of a decision to approve a forest management plan which will complement the public consultation process of the planning manual and the bump-up provisions of the Environmental Assessment Act.

This act provides for the appointment of local citizens' advisory committees.

Licensees who collect forest information in cooperation with the ministry or are required to provide specific information such as a forest inventory must meet the standards detailed in the forest information manual.

There are requirements for annual reports and five-year state-of-the-forest reports to the Legislature as per the environmental assessment terms and conditions.

As this government proceeds with nation-to-nation negotiations with aboriginal groups, the act will enable the minister to sign stewardship agreements for planning activities.

The second major concept that this act captures is that of responsible stewardship. This act may be viewed as a means of obtaining a balance between the responsibilities and the benefits associated with stewardship. The Ministry of Natural Resources has the legislated responsibility for overall stewardship of the public forest resources. Both licensees and the public share in the responsibilities and the benefits of this stewardship.

Licensees, as defined by the act, extract direct monetary benefit from the use of the forest resources.

The act provides authority to ensure that crown forest resources are shared by all users in a fair and equitable manner.

Licensees will have the responsibility and the obligation to contribute to the replacement of the public resource.

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These contributions and obligations will be set out in licences, renewal and maintenance agreements, and in the regulations and manuals.

The public contribute to sustainability of the crown forest through the activities of the Ministry of Natural Resources. In turn, the public receives revenue and other benefits from a healthy forest ecosystem.

Part III of this act provides for the licensing of forest resources. Specifically, notice is required when forest resources are made available, along with a competitive process for making those resources available.

The provisions of the Crown Timber Act which permit the minister to sign, with order-in-council approval, long-term forest supply agreements have been retained.

The licence structure of this act includes two major types of licences: the first, forest sustainability licences, which will include the existing forest management agreements. These licences will include evergreen renewal provisions dependent on the licensees' performance and will require the licensees to prepare forest inventories and forest management plans, complete renewal and maintenance activities, and submit periodic reports on licence activities to the minister.

The second major type of licence will include a variety of sublicences which will be issued by the minister for periods up to five years and will include licences for medium and small commercial harvesters, salvage licences, tendered sale licences and small personal use permits.

The minister will have authority to set prices administratively and to amend or cancel licences under the circumstances which are set out in part VII of this act.

The Crown Timber Act contains provisions requiring the manufacture of crown timber in Canada. These provisions have been retained.

Approximately one quarter of all timber harvested in Ontario is harvested by companies which must obtain their timber from larger licensees.

The minister will have strengthened powers to ensure that this timber is provided in a fair and equitable fashion, and ensure that the rights of these third-party licensees are reflected in licence documents.

When licensees cannot agree on harvesting and renewal arrangements, the minister will have the authority to impose dispute settlement.

Part VI of the act contains provisions for forest resource processing licences which also contribute to stewardship.

A licence is required to operate a mill. When a major mill construction is proposed, a feasibility study and wood supply analysis will be required. These provisions are intended to ensure that mills which are dependent on crown forest resources have an adequate supply of timber before the mill is constructed.

The Vice-Chair: Just briefly, if you could try to be as quick as possible, because we do want to leave a little bit of time, because we're adjourning at 12, for the members of the committee to ask any questions for clarification.

Mr Cleary: Okay. The third major concept embodied in this act is accountability.

The minister believes that those who benefit from and are responsible for the management of the resources should be accountable for sustainability. Before any activities commence, forest managers must prepare forest management plans, work schedules and prescriptions. Forest managers are accountable when preparing plans for seeking input from the public and local citizens' committees.

When operations are approved, they must be conducted as per the forest operations and silvicultural manual. All harvesting and renewal activities are guided by these manuals in addition to the specific terms and conditions imposed through licences.

Audits and monitoring activities will be conducted by

the ministry and independent audit groups.

The collection, storage and use of this information will be directed by the forest information manual. Finally, there will be accountability for the condition of the forest in the reports to the Legislature.

I'd like to address revenue flows next. The collection of revenue for forest renewal was a key objective in the government's review of its business relationship with the forest industry. The dedication of revenues to provide assured funding for forest renewal is a significant feature of this legislation.

Revenue is obtained primarily through charges and fees paid by licensees who harvest or in the future use forest resources. These revenues relate to volumes and species of forest resources harvested which are measured by licensed scalers and are collected through a measurement and billing system which is controlled to exacting standards set out in the scaling manual.

The fees and charges are collected and applied in two ways: as forest renewal charges into the forest renewal trust and as flat rate fees that go into the forestry futures fund, and secondly, as fixed minimum stumpage charges, residual value charges and area charges which are paid into provincial consolidated revenues.

Part of the consolidated revenues will flow back into the ministry activities through the budget allocations of the ministry. The trust funds are a significant achievement by providing dedicated funding for forest renewal and maintenance operations.

The final concept that this act supports is fair and effective compliance. Compliance begins with rules, responsibilities, standards, obligations and guidelines. There are a number of documents that describe how people should treat the forests, including forest management plans, work schedules, forest operations prescriptions and licence terms and conditions.

Ministry standards and directions are also set out in regulations and the four manuals which are designated under the regulations. Collectively, these documents serve as the education part of compliance. The role of the Ministry of Natural Resources is to monitor forest operations to ensure that the obligations are met, forest information is generated and to reinforce the education side of compliance.

If something goes wrong, the Crown Forest Sustainability Act has a number of measures to correct the problem. These enforcement provisions firstly are directed at remedial action which is intended to correct the problem on the ground. The act will provide for administrative penalties which are intended to reinforce obligations and fines imposed by the court and also the ability to seize timber. These provisions represent incremental steps in a layered enforcement system.

In all, the compliance provisions of this legislation are fair and appropriate and the remedies and enforcement provisions of the act have been significantly revised to provide more balanced enforcement provisions than the existing act.

There are three other parts of this act that speak to miscellaneous provisions, including the four manuals

which we will be discussing shortly. There are also transition provisions which provide for the smooth transition of management plans and licence documents from the Crown Timber Act into this act but, for the sake of brevity, I think I'll pass the presentation over to my colleague, Mr Dave McGowan, who will explain the regulations in more detail.

The Vice-Chair: Quite short, because time is running out.

Mr David McGowan: As Ken has said, my name is David McGowan. I'm a registered professional forester who also works for the Ministry of Natural Resources, particularly the legislation section. I too am pleased to be able to make my presentation on the regulations portion of the Crown Forest Sustainability Act here in my home of Sault Ste Marie.

The manuals and regulations are the key means by which the enabling nature of the act is translated into more specific direction. It is through the regulations and rules that rules, responsibilities, guidelines and obligations are more specifically defined. They are the primary mechanism by which the force of law is transferred to the activities of information, planning and operations.

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Regulations allow the government, through the MNR, to regulate the business of forest administrative activities. They allow the enabling nature of the act to be translated into more specific direction while still retaining the force of law. Finally, they provide a mechanism for government to establish firm policy direction.

The CFSA contains 29 regulation-making powers. The present intention is to act on 23 of these powers. The 23 powers have been grouped into three broad subject areas: first, forest resource processing facilities, or mills; second, area charges, forest renewal charges, forest futures charges; and third, forest resource licences. There are three powers that don't fit these categories, two related to scaling, or the measurement of wood, and one related to the designation of manuals.

Efforts are continuing to improve the regulations through responding to input we are receiving from our clients and the public, and we expect to carry this on as the hearing progresses and the committee's findings are noted.

The first group of regulations I'll deal with are the forest resource processing facilities. These powers relate to the licensing of mills. They are largely unchanged from the current Crown Timber Act.

New under the CFSA is an increased emphasis on adequate upfront planning. This is reflected in the requirements of applicants to provide a detailed business plan and to conduct a forest resource supply analysis prior to issuing a licence. This requirement will provide better information on demand and source of proposed mill supplies and better enable MNR to properly allocate the resources it manages.

The regulations will set out classes of mills to be licensed by the type of product and capacity as well as establishing the fees for those licences.

Finally, the regulations on mills will set out conditions

under which the minister can suspend or cancel a licence. In all cases, the minister must provide the licensee with notice of the intention to suspend or cancel and then provide the licensee with the opportunity to make a representation to the minister in regard to the action proposed.

Through an error, a copy of the schedule to the regulations that shows mill classifications was not included in the packages. This slide shows that information, and I have copies for the committee or others who may wish and I have passed those to the clerk.

There are several regulation-making powers that allow the government to set charges that are to be paid by those licensed to operate in a crown forest. The first of these deals with setting an area charge for each licence issued. This regulation will set a dollar amount per square kilometre to be paid into consolidated revenue. The forest futures charges are also specified under the regulations. Again the regulation will set a dollar amount per square kilometre, to be paid into the forest futures trust fund for the purposes Ken outlined earlier. Finally, the regulations in this general grouping will specify forest renewal charges to be paid. Here the dollar amount per cubic metre of wood harvested, to be paid into the forest renewal trust fund or into the special-purpose account that Ken alluded to earlier, will be established. For your information, the proposed rates are \$6 per cubic metre for white pine and red pine conifers and other conifers; 50 cents per cubic metre for poplar and white birch; and \$1 per cubic metre for grades 1 and 2 hardwoods.

These charges are expected to generate revenues of approximately \$60 million for the forest renewal trust fund, \$6 million for the forest futures trust fund and about \$14 million in area charges to go to consolidated revenue.

The regulations for forest resource licences detail a number of items from the act. The standard terms and conditions that must apply to every forest resource licence issued will be laid out here, such as the length of the licence and the species it authorizes; for example, the period for review and the conditions for renewal of a forest resource licence, such as the current evergreen provisions in today's FMAs.

The power in the act to amend a forest resource licence is defined. The regulations will specify what can be amended and the procedures that must be followed; for example, the modification of the area under licence.

These regulations will cover provisions for transferring the ownership of a licence and the associated fees.

The act provides for more than one licence on the same piece of land but for different forest resources. It requires that licensees with overlapping licences attempt to agree on the nature of how their operations will interface. Finally, it establishes a dispute settlement mechanism for those situations where the licensees cannot agree. These regulations spell out the minimum requirement for these agreements between the licensees, and they also define the process for the dispute settlement provisions.

Regulations here define the grounds for suspension and cancellation of a forest resource licence. As with mill

licences, the act requires that the minister, in the case of an amendment, suspension or cancellation of a forest resource licence, first, provide the licensee with notice of the intent, and second, provide the licensee with an opportunity to respond to the proposed action.

Lastly, there are provisions of these regulating powers to deal with the disposition and harvest of trees owned by the crown but that are not in a crown forest; that is, they are on land that has been patented but whose patent did not include some or all of the trees.

As I mentioned earlier, there are some regulation powers which are not being acted on at the present time. When it is appropriate, the act provides the opportunity in the future to describe any other plant life as a forest resource. This will require that a solid base of science, knowledge and information be established from which to work. Similarly, the act provides a future opportunity to prescribe other uses of the vegetation of a crown forest, thereby requiring those uses to be valued, licensed and otherwise subject to the act. This would apply to both consumptive and non-consumptive uses.

The provisions for an appeal process regarding forest management planning are not being acted on at this time. The decision of the EA board, which is now law, has made a number of recommendations that will apply over the next nine years. They require extensive public consultation and establish an issue resolution process. These need time to be allowed to work and produce results before the prescription of appeal provisions.

Conditions on forest resource processing facilities respecting location, efficiency and operating methods are not required at this time.

Forest management boards are an evolving concept. The MNR has only recently established local citizens' advisory committees and is undertaking pilot projects with community forests. The results of these will eventually yield models for the establishment of the boards.

Finally, the timber EA decision makes provisions for a range of monitoring, auditing and evaluating processes, both dependent and independent. These will be in force over the next nine years and under considerable scrutiny. Also, as I'm sure the committee knows, MNR has in the recent past completed an independent audit in relation to crown forests. It is believed that these items need time to work and to be evaluated and that the CFSA needs to be enacted and implemented before regulations for an independent audit are established.

This concludes my remarks on the regulations. My thanks to the committee for its time and this opportunity. I would now like to introduce Mr Bob Elliott, who will talk to the manuals under the CFSA.

Mr Bob Elliott: Good morning, Mr Chair, members of the committee. I am going to talk about the manuals that are required under the proposed legislation. Four manuals are prescribed in the proposed legislation. These manuals follow the direction given in the act, will meet our obligations set out in the timber management environmental assessment terms and conditions, and are consistent with the new forest policy direction in Ontario, like the forest policy framework and the conservation strategy

for old-growth red and white pine.

Natural resource management is done in the field by competent staff. Good legislation, policy, and research and technology provide support. These manuals give the required technical direction and guidance to forest management planning and forest operations. The fact that these manuals are required by legislation gives stronger weight to this direction and guidance.

The manuals are set up in a way that provides an opportunity to update and improvement based on new knowledge and new policy direction; for example, the application of new silvicultural guides as they're developed, or the development and application of new guidelines for pine marten habitat, as required by the timber class environmental assessment.

These manuals have been developed over a period of about six weeks. Writing teams were established and staffed from within the Ministry of Natural Resources, with the help of non-government organizations that were invited to participate either as members of the writing teams, as reviewers of material as it was produced, or as participants in a workshop that was held in late July to provide advice and input. Interest has been high and the organizations have chosen to participate in one or more of the processes. I can just say that there's a second workshop planned for late in September or early October.

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The proposed legislation requires that an approved forest management plan be in place prior to any operation taking place. The Forest Management Planning Manual prescribes the content of the plan and the planning methodology to be used in developing the plan.

The forest management plan contains a description of the current forest conditions on the management unit, and this is where we get at the business of ecosystem approaches. It provides strategic direction for the management unit by defining long-term objectives, strategies and targets in the time frame of 20 years or more. It will describe the future forest conditions desired and the treatments required to get there, and it will describe the forest sustainability levels for the management unit.

The operational part of the plan covers a five-year period. A new plan will be prepared at the end of that period. This is where silvicultural techniques that will work on the management unit are defined, this is where harvest levels that can be sustained on the unit will be defined, and this is where harvesting methods that can be used in the forest types in that management unit will be described.

This will describe the renewal and tending methods needed to produce the new forest after harvest. The methods and techniques prescribed in the plans result in a wood supply for the forest industry, the provision of habitat for wildlife species, the protection of areas such as nesting sites for eagles and cultural heritage sites. These areas are identified as values during the planning process.

The forest management plan describes the monitoring program that needs to be put in place on the management unit so that the results of operations and treatments

conducted under the operational prescriptions can be tracked and recorded. The results are reported as an evaluation of progress in achieving the objectives and as a record of what has happened on that management unit. Public involvement in the development of the forest management plan is documented as a part of the plan.

The Forest Operations and Silviculture Manual provides standards and guidelines for the natural resource manager. They are based on current science and technology and are to be used by natural resource managers to ensure that best management practice is applied in the forest.

All the guidelines and technical standards described in this manual must be used in planning and conducting forest operations. The manual provides resource managers with access to current knowledge to ensure that forest operations are planned and conducted in a scientifically and environmentally sound manner.

There are currently five silvicultural guides that describe methods and techniques for the establishment of forest stands and controlling their composition and growth. These are written for jack pine, spruce, poplar, white pine and red pine forest types and for tolerant hardwood species such as maple.

These guides are supported by direction and guidance by the use of ecological classification systems, by guidance and direction for the assessment of results of these operations, and by standards that describe successful forest renewal.

Forest operations are governed by standards and guidelines that describe best practices for roadbuilding, bridge building, culvert installation, aerial spraying operations, forest operations near lakes and rivers, prescribed burning operations and utilization standards.

Habitat for wildlife and fish is a value that has to be provided and/or protected through good forest management practices. There are in the order of 16 guides identified in the manual that cover the habitat requirements for wildlife species such as moose and deer, eagles and osprey, hawks and songbirds. These guides provide the direction on how to plan and operate in areas where these species are present. Fish habitat guidelines prescribe ways to protect fish habitat during forest operations by doing things such as establishing a suitable width of uncut forest to help maintain the correct water temperature for species such as trout.

The Forest Operations and Silviculture Manual makes provision for additional direction and guidance required as a result of the timber class environmental assessment, like the development of habitat guidelines for pine martin, or as a result of new knowledge and its applications, like landscape management approaches to forest management.

Direction and guidance are provided for the application of socioeconomic values like old growth red and white pine, tourism and cultural heritage in planning and conducting forest operations.

The need for standards and guidelines that deal with the qualifications of people involved in forest operations and audit and evaluation is defined. Current standards,

like licences for wood measurement, are identified, and the need for additional standards, like tree marker certification, is described. The need for and the approach to audit and evaluation are described in the manual.

A third manual is the Forest Information Manual. Good natural resource management is based on good information. The type of information and the way it's collected, stored and used needs to be done in a standard way. The manual describes the need for information, the responsibilities for collecting, storing and using it and the methods for standard development and maintenance for both forest information and the technology required to handle it.

The manual supports good forest planning and operating practices by setting out standardized data and information requirements and associated management standards intended to ensure that the right quantity and quality of information on the forest ecosystem inventory are available and that the results of planning and operations are properly and consistently reported.

Forest management functions are described and the information requirements are defined in relation to these functions. Getting ready to do forest management planning requires certain information on the forest management unit and results of past operations on that unit. Information is also required on things like committee memberships, what consultation processes have taken place, along with the results of these processes, and the production of forest values maps.

This manual describes what information is necessary, where the information can be found and who is responsible for the information. The forest management plan needs information of the forest inventory to describe the current forest on the management unit and the forest values that are on that unit. Information needs for reporting at the local and provincial levels for both the current forest situation and the results of operations are important to be able to assess and evaluate the results of forest management and so that the local forest manager can assess performance and make any changes required.

Finally, we need to produce a provincial state of the forest report required by the timber class environmental assessment. Methods and techniques to collect, update and use the inventory information are described.

The need for a set of rules and guidelines with respect to data is important so that it can be shared, so that there's a common understanding of what's being described and measured and so that there's a consistency of application and that it can be done with confidence in the decision-making process.

I'd like to move on to the Scaling Manual, which is the fourth manual we want to talk about. Scaling or wood measurement is the way the volume of wood harvested by species is calculated so that a record of harvest from a forest management unit is available to the forest manager and so that revenue owing to the crown can be determined and collected.

There are eight ways of measuring wood harvested in Ontario. The manual describes a detail of each method in terms of the measurements that need to be taken and the

calculations that need to be done to record and report on the volumes harvested. Anyone who applies these methods must be qualified to do so. There is an approved course of study that must be successfully completed, including an examination before a licence to measure wood is issued.

The manual makes provisions for the reappointment of the boards of examiners to be appointed by the Minister of Natural Resources to set and mark the exams and to recommend those who should be granted a licence.

Just by way of wrapping up, the need for change in forest management practice has been well defined by both government and non-government organizations, provincially, nationally, and internationally. The work that is being done in Ontario towards the goals of sustainable forestry by all interested organizations is in response to this need for change, and it complements the national and international goals. New legislation like the Crown Forest Sustainability Act will provide a solid foundation for continued progress.

The Vice-Chair: Thank you. I presume that concludes the presentation by the ministry officials?

Dr Balsillie: Yes, it does.

The Vice-Chair: I understand, of course, that it took some time, as the documentation is rather voluminous. Nevertheless, I should give at least two minutes to each caucus to ask some questions. There may be opportunities later on during the hearings—I presume some of the ministry officials will be travelling with us, so if there are questions arising during the hearings, I'm sure some answers can be given later on.

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Mr Brown: I'm sure we have a number of questions. I was concerned when you talked about the evergreen "tenure." That's in the regulations, I take it. Is that how it works, Mr Cleary?

Mr Cleary: The evergreen provisions are embodied within the forest management agreements, and those forest management agreements, through the transition provisions of this legislation, will become forest sustainability licences; therefore the evergreen provisions will be intact.

Mr Brown: It's not in the legislation or in the regulation. It's through the agreement itself with a particular corporation or individual involved?

Mr Cleary: That's correct. The legislation itself speaks to providing for the term of a forest sustainability licence. The agreement itself speaks to the evergreen provisions and the renewal provisions subject to the licensee meeting the terms and conditions of the licence.

Mr Brown: So it will work essentially the same as it does today. Is that what I'm hearing?

Mr Cleary: That's my understanding, yes.

Mr Brown: I have quite a few questions, but in the interests of being fair I think we should allow other members.

Mr Hodgson: I'll have lots of questions throughout the hearings, but in terms of the trust funds that were established under Bill 160, who's the trustee? Has

anybody been appointed yet? That was done back at the budget time, when the trust funds were set up.

Dr Balsillie: If I might answer that, it's my understanding that the request for proposals is out right now and it will come back to determine who will be the trustee.

Mr Hodgson: So it hasn't happened yet.

Dr Balsillie: As far as I know, it has not been concluded.

Mr Hodgson: I mentioned this in my presentation. The money for the audits that we speak of and the compliance with all the information gathered—who's going to pay for this? Is the ministry going to have criteria, like a GIS, geographic information system? Is that what's ultimately envisioned here, that the manuals will all fit on this same hardware? In the short run, who's going to pay for the audits? Does that come out of the forest renewal trust fund or does the company bear that, or does the ministry?

Dr Balsillie: Some of it will come from the interest which will be on the money in the forest trust fund and some of it will probably be borne by the industry itself as well.

Mr Hodgson: One final little point: How come the discrepancy? When Bill 171 was first announced in the press announcements, the Toronto media picked up on the dollar figure that was announced by the minister that would be in the trust fund, of about \$100 million, and now today it's \$60 million plus in the futures fund about \$6 million. Is there anything that's happened since the announcement or was the \$100 million just a guess?

Mr McGowan: My understanding is that the \$60-million figure is based on what would come from the forest renewal charges and that there would be a transition provision to get the trust funds up and going, where the government supported the trust fund in the first year.

Mr Hodgson: So the government's going to kick in \$40 million to bring this up to the \$100 million?

Mr McGowan: That's my understanding. I'm not sure how accurate the \$100-million figure is.

Mr Hodgson: We've had trouble in the past raising money for forests and we're going to, in the first year, kick this up to \$100 million? I need that clarified. I thought maybe the \$100 million was just a guess, but if you're telling me there's a plan that in year one there's going to be \$100 million, will there be some cost breakdown on where it's coming from?

Mr McGowan: I'm not that familiar with the specific figures myself, but I believe that as the trust fund kicks in that is money that the government is not spending, and therefore there are provisions to take some of that money and transfer it in support of the trust fund as the two pass each other in the night, as it were. As the government slows down its input and the companies increase their input, there is a transition so that the total number tends to remain stable. The initial input into the trust fund is estimated to be somewhere in the neighbourhood of \$60 million from the forest renewal charges by the company. The balance would then come as a transition provision supported by the government.

Mr Hodgson: So in the future the industry will put in up to \$100 million a year thereafter.

Mr McGowan: You have a mix in that the trust fund supports part of the forest renewal that's happening and the special purpose account supports the other part. The trust fund is only contributed to by those companies that are participating in the trust fund. The balance of the forest renewal charges for companies that are not participating in the trust fund go to the special purpose account in consolidated revenue. As those companies move to participating in the trust fund, then their contributions would move from the special purpose account into the trust fund.

Mr Hodgson: You're calling it the special purpose account. Is that the area charge?

Mr McGowan: No, that's forest renewal charges that are not paid into the trust fund but are paid into consolidated revenue for those companies that haven't signed up with the trust fund.

Mr Gilles Bisson (Cochrane South): Just a couple of really quick questions. One of them is in the first part of the act where we say the sustainability of the forest is described as what's found within the actual planning manuals. In discussions I've had with people in industry, there's a mixed review when it comes to that. One of them is that it allows, as the technology changes and our understanding changes, to move the yardsticks along at the same time. I guess what I'm asking is, is the whole idea to not keep us locked in one particular point in time, where we would have to go back and change actual legislation, and to allow the technology to move with it? Is that the idea?—just to clarify.

Mr Cleary: That is part of the concern about having a rigid definition in the legislation which becomes fixed and does not support the concept of sustainability as it evolves. The other problem, of course, is that sustainability and defining how to achieve sustainability is not an easy matter. It's rather complex. Our feeling is that the best place to address that is within the planning manual that addresses how to approach the plans, which will in fact be the documents that ultimately address sustainability. Our preference would be that defining how we achieve sustainability be addressed in the manual, recognizing that there is the other point of view there.

Mr Bisson: In the act we talk about forest resource licences. Can you put that in context, what that would be equal to under the present legislation? Is that the licence the operator gets or is that the licence the mill gets, that has the FMA? I'm not quite sure, through the act.

Mr Cleary: These are forest resource processing licences?

Mr Bisson: The forest resource licence under part III.

Mr Cleary: In the existing act, those would include what we refer as to order-in-council licences, tendered sale licences.

Mr Bisson: District cutting licences as well?

Mr Cleary: DCLs in that as well, yes.

Mr Bisson: So rather than having a DCL or an order in council, you would have to get a forest resource licence and you would operate in a crown unit with that.

Mr Cleary: Yes, either in a crown unit or in a third-party arrangement on one of the major licensees.

The Vice-Chair: We're kind of at the end, but as the Liberals didn't take too much time and Mr Ramsay still has a question, we'll ask that question and then adjourn for the morning.

Mr David Ramsay (Timiskaming): Thank you, Mr Chair. On page 9, subsection 27(4), I just want you to clarify, in regard to lumber chips, what this actually means, that, "for the purpose of subsection (2)," which refers to wood being consumed in Canada, "chips produced as a byproduct of the manufacture of lumber shall be deemed to be manufactured into lumber." What's the reason for that, the rationale? Stumpage purposes or—

Mr Cleary: No, I believe it's simply to clarify the point at which a log has been manufactured. When a log is manufactured, if it goes into lumber it's considered to be a manufactured product. It's simply to clarify that chips are as well—

Mr Ramsay: A manufactured product. Okay.

The Vice-Chair: Thank you very much for appearing before the committee, and I thank the members for their attention. This afternoon we'll be beginning at 2 o'clock, not at 1:30 as was originally planned, so you have a little longer to take for your lunch.

Mr Ramsay: Checkout?

The Vice-Chair: Checkout time is 1 o'clock, apparently, or you make arrangements with the hotel.

This afternoon we begin the public hearings. You know what the process is: half an hour, and I'll explain it at the time. Thank you very much again, and we'll see you at 2 o'clock.

The committee recessed from 1159 to 1402.

NORTHSHORE FIREWOOD AND LOGGING

The Vice-Chair: The first presenter is Mr Darcy Alberta, from Northshore Firewood and Logging. You may not be familiar with the process. You have half an hour, and you can take as much time as you want, but it would be advisable if you leave some time for questions and answers, usually 15 minutes for presentation, 15 minutes for questions and answers. For those as well in the audience, we start with a rotation. It begins with the official opposition and then the third party and the government and the time will be split evenly in terms of the questions, just in terms of the process so that you are aware. If you wish to begin your presentation now, please go right ahead.

Mr Darcy Alberta: Sure. My name is Darcy Alberta. I'm representing a small fuel wood operation called Northshore Firewood and Logging. We are located in Bruce Mines, on the east side. We mainly deal with processing and selling this fuel wood at a local area, which is dealing mainly between Blind River and the Sault. Our fuel wood is mainly supplied by the Blind River office at the moment. The main problem is that we don't have enough fuel wood to supply the Sault office, and this is why I'm here. I think Bill 171 should have a section in it controlling the district offices on the distribution of fuel wood to the public.

Prior to five years ago, the Sault office used to give out personal fuel wood permits. They were \$10 permits where the public would go into the bush and cut their own personal-use fuel wood. They have had problems with this, so five years ago they decided to do away with it at a district level. They decided to get rid of it and replace it with a commercial fuel wood operation. They figured that this way they get a lot of people out of the bush who are inexperienced with chainsaws and that. They'd have one or two main operators in the area and the public would buy their fuel wood from these guys.

As I said, we have set up an operation in Blind River with that office, and we have been pursuing this constantly with the Sault office in trying to get some fuel to supply this area. We haven't been successful at all. As a matter of fact, the Sault office hasn't supplied any commercial fuel wood permits or private permits in this area east of the Sault at all in the last five years.

Okay, who's been supplying the fuel wood to this area? The majority of the processed firewood in this area has been coming off private and reservation land. Northshore has made up for the rest of the supply, mainly coming from this commercial fuel wood licence out of the Blind River office. But the Blind River office has stated in the next five years it will not make up for the wood needed in the Sault area. They don't have the resources, and they just can't continue to do it.

What are some of the damages caused by this, that the Sault hasn't supplied the fuel wood? The area east of the Sault is almost all rural area where they don't have access to natural gas. So the use of alternative heating and burning of fuel wood is largely used and has been used by some individuals all their lives. These people have not been voicing their concerns because there hasn't really been a lack of fuel wood. They've been able to buy it from individuals, as I stated, cutting off of private land and off the reservation, but that is coming to an end because the private timber is getting more scarce. It hasn't been properly managed, partially due to the fact that in a fuel wood operation, if the guy has to bid extremely high for the timber or even has to buy the land, you're looking at a fairly high cost. In order to get his money off it and keep his employees working as long as possible, these areas are sometimes stripped right down to four inches. You can take firewood down to three to four inches, therefore leaving basically a clear-cut.

I feel that if the Sault office would have contributed a portion of the wood needed, at least the amount of that harvest in the crown land could have been controlled. The whole area east of the Sault, as I've been stating, has become mainly supplied by private and reservation. If they would have supplied even a portion of the fuel wood to these commercial fuel wood operators, it could have been controlled anyway, that amount of the cutting.

How much crown timber is left in this area that can be utilized for firewood? The hardwood that would be viable for the use of fuel wood in this area is in the range of 3,000 to 4,000 hectares. This would last the public approximately 15 to 20 years in a selective-type harvest system. The Sault office is currently tendering these parcels out with no clauses that the wood has to be

destined for the use of fuel wood, and it could be sold as pulp.

In the next five-year plan, this area may be licensed out to one of the two local sawmills that currently do not deal with commercial fuel wood mills at all in this area. The main reason for this is cost. The sawmills are looking for top dollar for their pulp in order to stockpile their sawlogs, and as a commercial fuel wood operator we need to get top dollar for our sawlogs in order to stockpile our fuel wood. People want this wood to be relatively clean, and in the last three years we've been stockpiling the wood in a yard at a fairly high cost to us in the wintertime and selling our sawlogs to the local mills at the going rate. So if these mills end up with this timber in the next five years, this timber that is only viable for fuel wood could be gone within the next 10 years. As I stated, these sawmills end up with the sawlogs anyway, so why is it necessary to give them complete control of the fuel wood supply also?

Waste of merchantable timber: In the tendered sales that have taken place, there is a clause that the timber has to be taken down to a certain size, approximately five and a half to six inches, 20 centimetres in diameter. As a commercial fuel wood operator, we take the wood down as small as possible, including down into the limbs. The Sault office will agree that our operation utilizes the wood to a greater extent than if it was going for pulp. In the tendered sale that was done three years ago, there was enough waste in the bush that it would have supplied our operation for at least one year. The private citizens lost the fuel wood, the crown lost the dues and Northshore lost the work. It states in the Forest Operations and Silviculture Manual under section 2.1.2.6(ii), Wasteful Practices, on merchantable timber that "if a market exists for smaller material than 20 cm it should be taken."

I would like to see this put in place and enforced, especially within the next two weeks. It is during this time frame that the Sault office will decide what to do with this area, and if it is given to one of the sawmills within this period of time there will not be a retraction of the wood for commercial fuel wood operators or anybody else.

In the new regulations manual, under paragraphs 7 and 15, subsection 67(1) of Bill 171, 2.2 states that the forest renewal charge for any species of timber destined for a fuel wood mill is zero. In other words, we don't have to pay when these extra costs are going into effect. I would like to know how this is supposed to help an area where fuel wood isn't being supplied to us.

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Northshore was told that this was a district problem and should be resolved at a district level. We've been trying to do that but haven't gotten any results in the last three years.

I would like this to be considered as an issue that has been handled inconsistently at the district level and should be legislated at a provincial level. This is why Northshore feels that there should be something in the new Bill 171 to govern this issue. If Northshore is having this problem, there are probably other districts having the same inconsistencies, other problems, same things.

The Vice-Chair: Thank you very much.

Mr Brown: Thank you for coming, Mr Alberta. This is not a problem that is totally unique to the Sault area. One of the things you've identified in this is a problem that I think my colleagues from the north here from the Liberal Party are all familiar with: I'm told often of wood that's left in the forest after a logging operation and people are rightly upset, I believe, that they don't have the opportunity to go in there and clean up the forest, so to speak, and make valuable use of a resource that we would hope to be able to use. You said you have some limits in the—

Mr Alberta: Blind River office.

Mr Brown: —Blind River office. How would you see this working? I think your suggestion's valuable, but how would we write this into the legislation? What kind of protection are you talking about?

Mr Alberta: I would think just something controlling that they would at least supply some fuel wood to the public. They have told us as of five years ago that they were going to get away from the private sector dealing with the \$10 permits and they were going to go through commercial fuel wood lots. Okay? They were supposed to promote it and they have not been promoting it. I would like just to see something in the bill to enforce that they have to do so.

Mr Brown: One of the questions we've asked the ministry I think relates directly to your concern. There is some suggestion made that there could be an increase in cutting of about 50% across northern Ontario. I don't know the Sault district. I don't know that it would apply in the Sault district, but there is something like 50% of fibre now available. The question we've asked is, how are you going to allocate that?

So far we have received no criteria on how they rate a sawmill against a pulp mill against a fuel operator; how this all would work. Do you think that might be a line of attack we might follow in trying to improve the legislation: to have the criteria spelled out in the legislation so everyone knows what they have to meet in order to—

Mr Alberta: Right, sure, if they have some kind of criteria where they have to meet the fuel wood demand for the area; sure.

Mr Hodgson: Thank you, Mr Alberta. I just want to follow up on Mike's comments on what type of criteria you'd see that implemented as. You're stating that there should be a component in any of these crown reserves for fuel wood operators, as well as pulp and as well as sawlogs?

Mr Alberta: There is supposed to be. This was an issue. This was not set at a district level in the past, where they were supposed to change from private permits to commercial. If I'm not mistaken, it was done at a provincial level. Okay, that was something that was supposed to be done. I think everybody was supposed to convert over to commercial fuel wood operators.

Mr Hodgson: Was that an improvement, in your opinion? Getting away from the private: Was that an improvement?

Mr Alberta: Yes, it is, because especially in the new

bill you're supposed to be qualified to be in the bush. If you have everybody out there who doesn't have the chainsaw course and all that, yes, you're going to have incidents where people are hurt.

Mr Hodgson: I see. Now, this legislation allows for third parties to have rights.

Mr Alberta: Okay, again, what you're getting at is we work through another operator. Is that what you're getting at: through a third party?

Mr Hodgson: No, on a crown limit an independent operator would have a certain percentage that they could cut. They'd have to work it out with the licence holder. If they couldn't work that out, there'd be an arbitration process, as I understand it. Does that address your concerns?

Mr Alberta: In other words, you're basically saying working off somebody else's licence, and we've done that in the past. No, our operation's been in place for five years and I have worked for both the local sawmills at that level and as I've stated in the proposal, the sawmills are looking for top dollar for their pulp in order to bring their sawlogs home, into their yards to stockpile them. As a fuel wood operation, it's based almost completely the opposite. We need at least the going rate for our sawlogs, for an example, \$320 a thousand, to bring our fuel wood home because it is mainly cut in the wintertime because the public wants clean wood. So in other words, we need top dollar for our sawlogs to bring this fuel wood home and stockpile it.

If you work through these licensees, there's so much competition out there right now that they go for the guy who can work for the cheapest, which right now the going rate is \$100 a thousand, and we have done it. We've tried working for these guys, putting our machine on their licences, and it hasn't worked.

Mr Hodgson: I'm referring to section 35 of the act, page 11. It might be what you're talking about. I think it's something a little bit different, where you would actually have the right, but it doesn't specify fuel wood operations.

Mr Alberta: I see. Yes, in other words, you're talking about just working off somebody else's licence, so basically that boils down to—like I said, I've done this in the past.

Mr Hodgson: Even if you had an arbitrator, you wouldn't be able to work out a deal—

Mr Alberta: You see, it hasn't worked in the past. I've not completely ignored the issue. I have a meeting this week with one of the local sawmills again to try to work something out. I'm hoping that we can, but my problem with that is that I've done this in the past and they weren't forced into it in the past and they took full advantage of it. What happens is, I'll sign this contract for this five-year plan; five years down the road, what's going to happen then? Am I going to have to go through all this all over again in order to lock in some fuel wood for the public for the next five years again?

Mr Hodgson: So there's no sustainability in terms of your employees and your operation?

Mr Alberta: No.

Mr Hodgson: In five years, it could be—

Mr Alberta: We currently have seven employees; I would like to keep them working, yes.

Mr Bisson: Just a couple of questions. First of all, how many people do you actually have working at this?

Mr Alberta: Currently we have seven. In the wintertime we increase that.

Mr Bisson: Are there any other people like you around doing your type—

Mr Alberta: Dealing between here and Bruce Mines, we are the only commercial fuel wood operator process mill that deals with the ministry at the moment. There are a couple of other ones that deal on the reservation; another one that deals on private land.

Mr Bisson: Most of your sales, I take it, are in Sault Ste Marie?

Mr Alberta: No, most of my sales are in the rural area between here and the Sault where they cannot receive natural gas. They look for an alternative way of heating, and as stated, some of these people have been heating their house with wood all their lives.

Mr Bisson: I'm just trying to envision what you do here. It's like you cut a load of birch, put it on the tractor and bring it into a guy's yard, and he cuts it or do you cut it into—

Mr Alberta: No, it's a process mill. This is why we need top dollar for our sawlogs. In the wintertime we make hardly any money. People want the wood relatively clean. Our best sales are in the spring and in the fall, and some people buy all throughout the summer, but they don't want dirty wood and you cannot cut and haul this wood out of the bush without getting it dirty in the summertime, so it's done in the winter months.

Mr Bisson: So it's stove size and split is what you're basically selling?

Mr Alberta: Yes.

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Mr Bisson: In regard to the shortage of being able to get access to it, obviously each area is different. Where I am, that's not so much an issue; it would be more third party agreement stuff. I'm wondering, what kind of relationship—or not relationship; that would not be a fair question. What kind of ability and cooperation do you have in regard to the people who are out there who presently have either district cutting licences, or actually other mills that have FMAs or whatever? Do you get any wood from those sources, or is that really an impossibility?

Mr Alberta: You're talking about dealing with other mills again? Is that what you're stating?

Mr Bisson: Yes. Basically, their end is—

Mr Alberta: There are only two mills operating in this area. Right now there's only one mill. The area of concern is from the Sault to Bruce Mines, as stated, and right now there's one—Midway has a licence directly behind Bruce Mines but that wood for this operation is almost too far back. The main area of concern is around the Tower Lake area, and at the moment it isn't licensed to any of the mills at all. One of the two mills is going to

receive it as area. At the moment, all that has been up for tendered sale, as I stated, where there are no clauses in there stating it has to go for fuel wood or anything.

Mr Bisson: Is it mostly birch that you're going after?

Mr Alberta: No, maple.

Mr Bisson: Maple, okay. In our area it would be birch. I guess the question I have is that if there's a forest company in there doing cutting, and I take it that the maple is not a commercial wood that they're using for their sawmills—I take it that's the case—what you're saying is, you don't have the ability to go in and take those stands of maple that might be within their areas that you could have access to. I take it that's what your problem is?

Mr Alberta: My problem, as I stated—the going rate for the sawlog, instead of making \$100 a thousand, which is what the sawmills would like to pay us, we basically have to make it the going rate which is, if it was on my own DCL, around \$320 a thousand to cover the cost of bringing this fuel wood home.

I have sent a cost list to the district office with all this material and nobody argues the fact. Fuel wood is a very touchy subject when it comes to cost. As a matter of fact, in Bill 171, you're proposing that we are even going to get a break, as I stated. In the regulations manual, 7 and 15 of subsection 67(1), it states that any fuel wood going to a fuel wood mill does not have to pay this forest renewal charge.

Now you're telling me that you want me to go through a local sawmill, where they're going to charge me money over and above—

Mr Bisson: To get access. Just so that I understand, the issue is that you have to pay to get the wood from the private company in that case, if it's on an FMA.

Mr Alberta: Yes.

Mr Bisson: And the money that they want and what you can afford to pay because of what you get for the resale doesn't make it—

Mr Alberta: It is not feasible. That's why there's nobody in this area working for these guys doing processing of firewood.

Mr Bisson: So what you're asking us to do is to try to find some mechanism, on FMAs anyway, that you have some ability, where there's wood left standing that the forest companies are not going to get, that you can get access to without paying an arm and a leg.

Mr Alberta: Basically. I'm basically just asking you to enforce something that this ministry said it was going to do in the first place.

Mr Bisson: Now, that's the question I was coming to because you had mentioned that. What part were they supposed to enforce that wasn't enforced?

Mr Alberta: They said that they were going to supply fuel wood to the area through commercial fuel wood operators. They said they were going to promote it and they did not promote it.

Mr Bisson: Was that said through regulation or legislation? Where was that said? Was that just something said by the ministry or was that a policy?

Mr Alberta: As I stated, I think that was done at a provincial level. Does anybody else know anything about that, that it was a concern about five years ago, not just at district level? I think it was more or less at a provincial level that there were problems with private individual permits. Nobody else knows?

Mr Bisson: I've never heard of that. That's why I'm asking the question.

Mr Alberta: Yes. I don't think it was just a private talk at the district level.

Mr Bisson: I was just curious, because you had said in your presentation that the ministry was supposed to sort of go ahead with that, but I've never heard anything about it. You have nothing to refer back to? Was it a statement made?

Mr Alberta: Yes. I had a meeting with the ministry confirming all this two days ago—I mean, on Thursday.

Mr Bisson: So that's out of the Sault office?

Mr Alberta: That's out of the Sault office, yes.

Mr Bisson: I can get the information through them.

Mr Alberta: I had the meeting confirming all this information for this.

Mr Bisson: Okay. Thank you.

Mr Wood: Thank you, Mr Alberta, for coming forward with your presentation. Just a couple of brief questions and some follow-up from what Mr Bisson and some of the other ones have said. I'll ask the two questions and then you can respond.

What I'm curious about is, why has it not worked under the other licences? You were saying you were cutting under them. Why has it not worked? Why has the system not worked, and what would you think we should put in the legislation that would address your concerns that you're talking about right now?

Mr Alberta: It boils down to, why it hasn't worked is cost. If you don't work off of your own commercial fuel wood permit licence, say, you cannot afford to stockpile the wood at home. As I stated, the wood has to be brought home in the wintertime in order for the public to use it, for our process machine to cut it up, and if you try dealing with one of the local mills, like I have in the past—I've worked for both companies in the past at this level; we're talking about within the last four years—it's boiled down to cost. As a matter of fact, one year when I was working for one operation, they wanted to audit me because they were wondering why I was working for nothing.

That's basically what it boils down to. They want to know, "Why are you doing this?" So we stopped doing it. The Blind River office up to three years ago was still giving out some of these private permits. The Sault office was even sending people to Thessalon. When people were coming into the Sault office looking for private permits, they were sending them down to the Thessalon office, which works out of Blind River. They were sending them down to Thessalon to get these permits out at Cooper Lake. In other words, Blind River for the last five years has been supplying wood to the Sault office, to their area.

Again, like I state, it's more or less just cost. We've

tried all different methods, and it's because we got larger. Since the Blind River office wanted us to get into a larger or get out of it, because they have other people who want to get into the system, we went and we processed a fuel wood processor and we hired a few more guys to get into it to the extent where we could fill in the orders, like I said. But this operation is set so you have to have a fairly good dollar for your sawlogs to cover the cost of the fuel wood.

Mr Wood: So the biggest portion of your dollar would come from supplying pulpwood or sawlogs to the sawmills and then the firewood is a spinoff.

Mr Alberta: No, we don't get any profit out of that. I don't have the figures with me. The money you get from your sawlogs covers about a third of your cost of bringing the wood home; nothing over and above. The fuel wood still has to pay for the other two thirds. The sawlogs just pay for approximately a third, I think it is. No, there's no profit made off of sawlogs at all. It just helps cover the cost.

The Vice-Chair: Thank you very much for your presentation. The committee appreciates your appearance and I'm sure we will try and take your concerns into consideration.

ROBIN MacINTYRE

The Vice-Chair: The next presenter has cancelled. However, I understand that the 3 o'clock presenter is here. Perhaps Robin MacIntyre would come and make her presentation now. That would be appreciated.

Ms Robin MacIntyre: Mr Chair, I have one copy for you, and I have an extra copy that I'm reading from as well.

The Vice-Chair: Please give it to the clerk. The clerk will try and Xerox it. You know what the procedure is, about 15 minutes' presentation, then some time for questions and answers.

Ms MacIntyre: Thank goodness. I thought you wanted me to fill up the space until 3 o'clock.

The Vice-Chair: It's up to you. No, you will not have more than half an hour. That you don't have to worry about.

Ms MacIntyre: If I seem to be taking too long, just speed me up, because I'm going to try and talk slow.

The Vice-Chair: It's up to you. You have half an hour, if you want, leave some time for questions and answers, but you can take the 30 minutes if you wish. It's all up to you.

Ms MacIntyre: I'd like to give you a little bit of background. First of all, I'd like to thank you very much for this opportunity to address these hearings on the Crown Forest Sustainability Act. My name is Robin MacIntyre. I live in Goulais River, which is a community 15 miles northwest of the Sault.

Every aspect of my life has always been dependent on the forest. Since settling here in 1978, I've worked as a tree planter, a museum archivist, a ski lodge employee, a landscape labourer and a carpenter's helper, as well as my chosen profession as an illustrative artist. My emotional wellbeing and inspiration centres around my time

I spend in the woods. Presently, I work for my husband's landscaping business as a designer and a labourer. As well, we run a bed and breakfast and telemark skiing business that offers lessons and remote wilderness excursions. Our home was bought with these plans in mind. Since that date eight years ago, I've been involved in the Ministry of Natural Resources planning and management processes, hopefully, usually as a constructive partner petitioning for change. I've always hoped that the MNR would entertain a more holistic vision of forests along with the recognition of our responsibility to protect the biological system as we learn to manage the resource in a sustainable manner.

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As a member representing environmental and local tourism concerns, I've worked on the Tupper/Shields Cooperative Management Committee since 1989. I represent the same interests and experiences as a participant in the local citizens' committee, begun in 1991. I also work on a provincial planning review project as one of the six focus group members.

In the past four years, I've made presentations, written submissions or participated in workshops for the Class Environmental Assessment on Timber, the Environmental Assessment Advisory Committee, the Megisan Lake Environmental Assessment, the Policy Advisory Committee on Old Growth Forests, the Wildlife Strategy for Ontario, the Municipal Planning Act, and I'm certain that there are others I've forgotten about.

Looking back upon all of this, I understand what's happened to any leisure time that I might have had, but it will all be worth it if the Crown Forest Sustainability Act delivers upon the promise inherent in its name and incorporates the consensus findings from all of these initiatives and projects. It's long been obvious that the old Crown Timber Act is not adequate to deal with the expanded vision of the forest system and the social needs.

Becoming aware of the finite resources of the land and conflicts over these resources as the land base shrinks has proven to us that the need is there to change our thinking to a more conservational approach to use management. As early as 1871, this premise was seen. Sir John A. Macdonald wrote to the Premier of Ontario in 1871, "We are recklessly destroying the timber of Canada and there is scarcely the possibility of replacing it." Unfortunately, our first Prime Minister was alone in his thinking in pointing out that our forest resources were not necessarily infinite and could not be expected to look after themselves.

When the Policy Framework for Sustainable Forests was announced in April 1994, Ms Hampton stated his intentions to introduce new legislation for crown forests based on the principles found in this policy framework. I expected he would wait until all of the initiatives and reviews had been completed, but I was thrilled by the announcement.

Reading over Bill 171, my elation was tempered by growing concerns. Primarily, I kept asking, "What actually constitutes sustainability?" Nowhere in the act itself is there a definition of what the promise in the term "sustainable forestry" really entails.

This makes all uses of the term itself within the document utterly meaningless. At a local MNR public briefing last week, I asked where the principles of forest sustainability, which were included in the policy framework and approved by cabinet, occurred in the act. The answer was that in the interest of greater flexibility such definitions would be written into the regulations behind the act itself. Although the time has been very, very limited between receiving the draft documents last Thursday and appearing before you today, I tried to discern where these policies might be written.

Section 1.1.3 of the draft Forest Operations and Silviculture Manual deals precisely with achieving sustainability. It states directly that, "The purpose of the act is to provide for the sustainability of crown forests, and in accordance with this objective to manage crown forests to meet social, economic and environmental needs of present and future generations."

Then it proceeds to lay the responsibility for helping the MNR meet this objective with other initiative programs without ever defining "sustainability." As such, the only definition really offered is a concept of sustainable local economies.

I started to wonder about the insistence of using this terminology. A few pages further a possible reasoning comes to light: the idea of the recommendation of full support of domestic and international certification of Canadian forest products through the Standards Council of Canada and the International Standards Organization. This would "ensure criteria and principles that govern sustainable forest management are reflected in the international marketability of products."

This page goes on to place the responsibility for Canadian standards for sustainable forestry management to be set by a national committee, at which point the provincial guidelines and manuals within the Forest Operations and Silviculture Manual would be developed or revised to reflect this criterion. I find it rather frightening to think that this term can be used and accepted as a given by the world market without a solid definition written into the provincial act.

Similarly, the next section dealing with biodiversity, 1.1.4, again places responsibility for defining and incorporating biodiversity as it relates to sustainable management with legislation such as the Endangered Species Act and the Provincial Parks Act. I disagree strongly that these acts would implement biodiversity criteria in conjunction with a timber management plan within an FMU, a forest management unit, or a crown lands harvest block. Mostly, these initiatives instead deal with islands within the land base that are exempt from harvest activities.

The end of this section on biodiversity again reiterates that the MNR is committed to ensuring that its forest sustainability and biodiversity ambitions are incorporated into each of the guidelines and manuals as they are prepared and/or reviewed. All that this sentence means to me is that they can talk about the need for sustainability as long or as many times as they want without actually defining it or meeting the objective. It is imperative that a concrete definition of "sustainability" be incorporated into the purposes section of the act before it becomes law.

Much of the criteria that apply to harvesting licences is unclear. Considering that the attempted direction is one of delegating responsibility for forest management and renewal to industry from government, the sections that deal with these responsibilities must be clarified and defined. As an example, licensees are required to carry out renewal and maintenance activities—this is section 23—necessary to provide for sustainability, yet as I've mentioned before, there is no definition of what this entails.

Section 26 says that harvesting of forest resources is subject to the condition that the harvested amount shall not exceed the amount described in the forest management plan as available for harvest, assuming that this is based on sustainability and not on the current wood demand needed by the local industry. This is the closest this act comes to defining what the sustained yield of timber really is. I remember the old Crown Timber Act had a section on this, and it is a necessary inclusion to understanding the concept of timber yield.

Section 25 exempts licensees from this condition if the licence is for one year and under 25 hectares in size and if the minister directs it.

Further on, section 44 exempts a licensee from all of the forest operations—this is part IV—of the act under the same criteria.

I asked at our public meeting what actually would constitute an exemption. Forest fire management and fuel wood permits were the examples given. While the standard planning may initially be seen as excessive for such operations, without listing such specific examples and making sure that all harvesting is included in the local timber management plan, we are in real danger of denigrating the whole sustainability of operations. These exemptions should at least go through the same process as any allocation in a current timber management plan.

In an MNR news release, June 1, 1994, the minister commits to completing a system of parks and protected areas by 2000 and continuing to identify and protect new sites, yet the amount of wood volume withdrawals for other uses has been capped at 5% per area in subsection 32(4). It seems that this amount is only possible if the licence is transferred, assigned, charged or otherwise disposed of.

Along with section 31, "Amendment of licences," these criteria intimate that withdrawals of identified park or protection areas are only possible through the timber management plan process. This is more restrictive than present regulations and seems contradictory to the government's mandate to identify and complete a protected areas system. It must be obvious in the articles of the act that the minister may continue to identify areas for other uses or withdraw them from the harvest operations roster at any time.

It is heartening to finally see, through the trust fund ideology, a responsibility to use funds to directly influence forest renewal and management. In my experience on crown management units, the technology and the knowhow has been present for proper sustainable management for at least 10 years, but money and manpower have been lacking. I'm very interested to see to what

level the industries will be able to fulfil these needs. I've always been frustrated by the MNR's inability to monitor and report in its stewardship role due to these constraints. Hopefully, the trust funds will free up or add to investments that will benefit the forest environment and all users, and the ministry will benefit from a closer partnership with a responsible industry and greater manpower in the field.

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A final concern I have deals with responsibility to all users, as well as to environmental health. Throughout this act, provisions referring to aspects of the forest other than timber management and objective strategies seems quite vague and interpretational. An example of this can be seen in part II, contents of forest management plans, clause 7(2)(b). The plan is only directed to "have regard to the plant life, water, soil, air" and various "values, of the management unit." "Have regard" can be interpreted in many ways and certainly does not direct the forest managers to identify conditions that are present before a harvest operation, or during.

A better wording would be "to describe the plant life, animal life, water, soil, air and social and economic values, including recreation values, tourism values and heritage values, of the management unit." The key word there is "to describe."

This also applies to subsection 8(2) on the same page. The present wording is: "The minister shall not approve a forest management plan unless the minister is satisfied that the plan provides for the sustainability of the crown forest, having regard to the plant life..." etc. This implies that the minister decides what constitutes sustainability, mostly from a timber extraction perspective.

A more concrete wording would be, "The minister will not approve a forest management plan unless the plan provides all users and values of the crown forest with sustainability, as defined by the principles of the act, in accordance with the purposes and strategic objectives of the act."

I'd like to highlight some changes that I feel are required to make this act fulfil its promising contents.

(1) First of all, the legal principles of forest sustainability, as defined in the Policy Framework for Sustainable Forests, April 1994, must be included in the purposes section of Bill 171, and not left to be defined in the forest management planning manuals, as suggested.

(2) Exemptions to the act and designations of the land base for non-timber uses must be explained and defined. This act must not restrict the current protection process for identifying areas suitable for the park system or the Keep it Wild initiative.

(3) Independent audits of government and forest industries must be provided for to allow for a public viewing of forest management and funding directions. If responsibility shifts from government to industry for forest renewal and maintenance, the process must be measurable and visible. Recognition to other values of the forest other than resource extraction must be identified as at least of equal importance to timber concerns, and identified in the planning manuals.

In conclusion, I'd like to say that a new forest act, one that requires a holistic approach to forest management based on sustainable ecosystems, is desperately needed by the province.

Even though the time frame allowed for review of Bill 171 has been totally unreasonable and, I feel, insufficient for a thorough response, I believe this bill can work if the aforementioned changes are made before the last reading. Forest managers must be assured, along with the rest of the people of Ontario, that this act will have the substance to provide the tools and the fiscal ability to effectively deliver on the promise of sustainability.

I'd like to thank you very much for this time, and I will take some questions if you have any.

The Vice-Chair: We have about five minutes per caucus, the Progressive Conservative caucus first.

Mr Gary Carr (Oakville South): You've obviously done a great deal of work in preparing and I want to thank you. You were very thorough. You've had a chance to read through the regulations as well, then?

Ms MacIntyre: I started on Thursday night when I got them and I read through most of them. I pretty much skipped over the part on the tree scaling, because I figure that the technical knowhow is not in my head, so it must be there.

Mr Carr: You certainly have a lot of knowledge, that's for sure. You have ministry staff here, the number two person in the ministry and the parliamentary assistant, so you have a good opportunity to sort of sum up some of the changes you would like to see. If you were to tell them specifically, just sort of sum up what changes or amendments you would like to see, what would you tell them?

Ms MacIntyre: I think my three points—hopefully we'll get a copy to you—but definitely the legal principles of forest sustainability should be defined in the act. There's a lot of reasons for this, but from my layperson perspective, most people—the draft regulations and manuals are meant to be working copies. They are meant to be flexible and they are meant to be able to be used with impunity when changes come along, as in the revisions every five years that are planned.

I believe the act itself should lay out the concrete definitions of what the meanings are, the concrete definitions of what the reasoning is, because people tend to refer to the act a lot quicker, in a legal sense, than they would refer to the draft manuals. Definitely, if you ever had a situation where there was a legal consideration or it needed to be used in a court of law, the definitions must be there, in a legal sense.

Mr Carr: Good. You not only know a lot about forests, you also know a lot about legal too.

Ms MacIntyre: About what?

Mr Carr: Legal as well, so that's excellent.

Ms MacIntyre: I hope not.

Mr Carr: With regard to the input to the process, is there anything that the government has missed now in terms of what you've been hearing from other sources rather than yourself? What else have you been hearing

out there? I take it a lot of these are your concerns, but is there anything else? As somebody who's been actively involved, is there anything else you've been hearing from either the industry or the average person?

Ms MacIntyre: Yes, something I didn't really elaborate on, and that is very strong concerns about on-ground operations and the ability to manage effectively from a monitoring and stewardship point of view.

A good example of this is that a friend of mine is involved with a citizens' committee in Sudbury. Sudbury is a very large region, and they—I believe this region as well. We only have one biologist for the whole region, and there are so many aspects to managing the forests it's almost totally impossible, I think, for somebody to do their job effectively the way we want them to do if there's only a limited amount of time—manpower—to do something.

I'm very concerned about the trust funds, and other people are concerned about the moneys, that it's going to go directly to effectively working with the forest aspects, not only with things like silviculture and tree planting, but the actual forest aspects that make up the ecosystem, the biology, the water-soil-air quality. The situation is needed where we have a lot more responsibility from the MNR's point of view to on-the-ground operations, to people who are actually in the field and searching out the things that need to be looked at.

Mr Carr: Thank you. Very helpful.

Mr Hodgson: Thank you very much, Robin. I enjoyed that. You mentioned a sustainable volume. There's some debate on what is the sustainable volume of timber. Have you been involved in that? Right now, what is it, 25 million cubic metres we're taking out, 20 off the crown land and five off the private?

Ms MacIntyre: I can't speak for the province, but I can definitely speak for what the aim has been within the local district in terms of rotational areas, using smaller hectares for operations, trying to diversify operations so that we're using different qualities and quantities of wood. I think the idea of what a sustainable yield is is definite. I think there's a technical definition which was in the crown forest act which said per hectare for the public lands and the private.

Mr Hodgson: Related to that, then you talk about sustainability for all users. Sustainability for all users: Is that possible, or is there a compromise you're ascribing a value to the use?

Ms MacIntyre: Don't get me into this; we'll be here for ever. My personal feeling is that—

Mr Hodgson: You want that defined for the whole province.

Ms MacIntyre: I can define it for the whole province. If we want to get into the values use and the multiple use and integration, we have to look at the whole province. We can't look at little blocks or Algoma region or different regions, because in that case you're all fighting over the same pie.

When you look at the whole block, the whole region, you're faced with a lot of different types of land base. You've got types of land base you can use for different

uses. You've got land base that's cities, you've got swamps, you've got large areas of boreal forest, you've got large areas of crown management units involved with hardwoods. You also have larger areas that have human invasion and human use and you also have areas that don't have, to the extent of roads, to the extent of major uses, such as timbering or mining extraction.

When you look at it over the whole province, it's pretty obvious to see that a lot of the uses aren't compatible and that there's going to always be a problem with conflicts at the local level unless we come up with some type of policy that says what makes compatibility a quotient in the sustainability yield, what makes it possible for people to use these different regions. Until we have the proper definitions, we will never have that.

As it stands now, remote tourism is a major conflict in this area. Throughout all of Ontario, remote tourism's been backed into the corner, has been denigrated to the very farthest reaches of the back corners, because everywhere you get roads and timber extraction opportunities, you also have an increase in tourism use, and the idea of remote tourism, which is fly-in, or travel that is restricted to wilderness travel, self-propelled travel, is denigrated. There isn't the space for it any more.

Mr Hodgson: Just as a follow-up to that—

The Vice-Chair: Sorry, but that's the time for the Conservative caucus. I am sure some of the other questioning will continue that line of reflection.

1450

Mr Derek Fletcher (Guelph): Thank you for coming today. I just want one clarification on sustainability. As you know, when we travel around in a committee it's to hear what people are saying about the first reading of the legislation, and then we usually make amendments according to what people are saying. Are you asking for the definition of sustainability that's in the manual and the regs to be put into the legislation?

Ms MacIntyre: Yes, the one that's in the policy framework.

Mr Fletcher: Okay, that's all. I wasn't quite clear.

Mr Wood: Thank you very much. You've come forward with a real knowledge of legislation and knowledge of forestry. Mr Fletcher touched on one of the questions I was going to ask. I'll go into another area. You mentioned subsection 32(4), which allows the minister to reduce the amount of licence by 5% at the point of transfer, only when it's being transferred. I want to know if you have any further comments on what you'd like to see, whether you're happy with that or would like to see some changes.

Ms MacIntyre: I think that's very restrictive, considering that each site is different. When you deal with a point-by-point situation where we are in the process of defining areas that are suitable candidates for protected areas such as the Keep it Wild spaces—there is a definite assent within Parliament that we haven't finished with that yet. If you were faced with the situation of being in the middle of a timber management plan which was going to exhaust a certain area within five years and, let's say, 10% of that area was considered an endangered

space or an atypical area that needed protection, the way the legislation stands now, as far as I understand it, you would not be able to remove more than 5% of that. The way it stands now—what I've understood from my very brief reading of it—is that it's more limiting than the legislation that we have in effect now.

Mr Wood: I understand that there's a possibility in the legislation to withdraw more. The 5% refers to at the time of transfer of licence, but there is in the legislation an option for more.

Mr Bisson: I'm really curious about the whole question of sustainability when we talk about different users of the forest. I live in Timmins, so on a very regular basis I deal with constituents who are trying to get firewood, who are trying to access fish, who want to protect the fish for the outfitters, who want the forests for the companies—onwards and onwards and onwards.

You say, and I agree with you, that we need to utilize the forests in the best possible way, keeping in mind the balance between all those various users. In your view, how would you actually balance that? I'll tell you, I haven't been able to figure it out. All I know is that the minute the MNR tries to do the right thing when it comes to, let's say, the outfitter, I've got every fisherman in my riding banging at my door telling me they can't get access to a particular lake vis-à-vis—

Ms MacIntyre: That's certainly my experience too working with the local district. I think it falls right back to education and responsibility to the resource. If you've got the chance to educate people about why you're doing this—for instance, if you're closing a road, if you'd never put a road in in the first place, you never have to close it. If you put the road in and you have a sign up as soon as you put it in that says, "We might need to close this road in the future. Be aware that travel is restricted to a certain amount of time," for the next six months, whatever, then people can't plead ignorance and they can't plead the fact that it was their given right to do something.

In the face of changing times, in the face of our responsibility to protect something for future decisions—I'm not saying to protect it and turn things into a park. But mostly people complain bitterly about not being able to get somewhere, and the problem is that they just don't understand that they've got legs and they also have canoes and they also have the ability to take a stick and walk. There's a traditional—

Mr Bisson: When they spend \$5,000 for an ATV, though, they don't want to talk about their legs.

Ms MacIntyre: Then we have to relate it to the province. When you look at the amount of time and the amount of roads, there's something like 16 million miles of roads within northern Ontario that people can use for ATV travel.

Mr Bisson: I don't disagree—

The Vice-Chair: Thank you, Mr Bisson. Unfortunately, time has expired for your caucus.

Mr Frank Miclash (Kenora): Robin, thank you for your presentation. You'd touched earlier on a couple of the suggestions you wrapped up with, but one you haven't expanded on and one I would like to hear more

of your views on is the independent audits of both government and private operations.

Ms MacIntyre: As you know, at the very end of the act they deal with independent audits, and by then I was getting really tired. But from what I understand from reading the draft documents, there is a clause in there that says they might not have to be effectively used. Because the MNR has gone through so many changes in the past five years—from what I understand it's very hard to audit something without a base to audit it against.

The idea of more money relating to the resource is very, very important, but it's very critical in the first couple of years that we make sure that money's going directly to where it's needed. A lot of those situations have been identified through the timber EA and through the different initiatives as well. Unless there's a chance for the public to review and to relate those requests and the amount of public involvement to where the money's going and how it's being managed, I think it's just going to end up being a closed book and we're going to have to reopen it again in another 10 years and say: "Where did we go wrong? Where did the money go and why isn't it working?"

Mr Brown: Thank you for coming. I look forward to reviewing your presentation because some of it went by me just a little too fast.

Ms MacIntyre: I'm a fast talker.

Mr Brown: I share your concern about "sustainability," and the other definition we've had a lot of trouble with over on this side is "ecosystem," defining it in some kind of fashion that everybody would understand. It's a nice motherhood sort of concept, but until you can flesh it out it's a little difficult for people to understand. Do you have any suggestions in that regard, because without talking about ecosystem, the sustainability problem is going to be there too.

Ms MacIntyre: The main concern people have when they criticize or when they try to wrap their minds around the idea of "ecosystem" is that quite often they take man out of it; quite often they try to define man's sustainability of yield or what man needs economically or socially, compared to what the environment needs and what the ecosystem is like. It's impossible to do that because man is involved in the ecosystem: We're here now and there's no way we could effectively delete our impacts on the environment.

But I think we're starting to do it from a very local perspective. We're looking at the idea of multiple use, and when we started to talk about integrated resource management, started to deal with the idea of what was in the ecosystem, we were starting to describe what was in a district and what was needed to be looked at when we were looking at a timber management plan.

My definition of "ecosystem" is probably different from everybody else's, but the environmental or scientific world has been working on this and they've defined "biological system," they've defined "ecosystem," and I believe the definition is there. I believe what we have to do is look at the strategies and objectives we have in managing the forest, and then we have to look at what an

ecosystem entails, and then we have to relate our activities in terms of what the options are to impact on that system.

I see our personal responsibility as looking at it at least on a province-wide scale and looking at—I've lost my word. Anyway, man impacts on the environment in a very large way. Sometimes we do a worse job; sometimes we do a better job. Our job is to make sure that that job is not irrevocable and that we don't damage something to the extent that it's not usable for another generation. In terms of looking at the ecosystem and our use of it or us within it, we have to always be looking at mitigating our effects on it.

The Vice-Chair: Thank you very much for that presentation. Unfortunately, we've run out of time. We certainly appreciated your presentation and we look forward to receiving the paper copy of your remarks. It is clear that you've already done quite a bit of thinking about this matter and we appreciate your sharing those thoughts with us.

Ms MacIntyre: Thank you.

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JO ANNE FLEMING

The Vice-Chair: The next presenter is Jo Anne Fleming. Have a seat, please. You can sit in the middle if you want to—it's up to you—but this side might feel a little alienated.

Ms Jo Anne Fleming: In that case, maybe I should.

I received notice that I was going to be here this morning about 10 o'clock last night. Unfortunately, while I was out of town the past week, I was not reading Bill 171 as my bedtime reading, so the points I'm going to make today are more general in nature but I think reflect my feelings about this legislation, and I'd like to bring an historic context to it as well.

The Vice-Chair: We actually had your name on the agenda for several weeks.

Ms Fleming: I know. I was the one who put it there. I just had no idea when the hearings were going to be or where they were going to be or whether I was going to be heard, so that's where I'm coming from.

First of all, my name is Jo Anne Fleming. I have lived in the Sault Ste Marie area for a number of years now. I also have a business called Environmental Realities. It's educational in nature, target groups being businesses, schools and the general public.

When looking at this act, my first major concern has to do with the lack of definition of sustainability. That is a topic that has been discussed many times already, I'm sure, but I'd like to refer first of all to a brochure prepared by the Ministry of Natural Resources called Sustainable Forestry: Managing Ontario's Forests for the Future. It has a definition in it which I feel is fairly effective in expressing what sustainable forestry is: "It is forest management that ensures the long-term health of forest ecosystems. It contributes to global environmental benefits while providing an array of social, cultural and economic opportunities now and in the future."

That is the essence of what I think we should be

moving towards as much as possible, but I'd like to add an historic context. I'm taking this information from the book *Renewing Nature's Wealth*, a centennial history of the natural resources of Ontario published in 1967. There is the feeling that the term "sustainability" was coined by Gro Brundtland and first heard in the Brundtland report when in fact it's been around for a long time. It has even been around for a long time in terms of legislation related to forestry in Ontario. In here there is a reference to the Pulpwood Conservation Act of 1929; that act required all pulp companies to supply government with complete information about their holdings and to plan their future management on a sustained yield basis. That was in 1929. Why are we still trying to figure out what it is and how to do it? That's something I really want us to take a look at today: Way back in 1929, directed to manage for sustained yield, and here we are yet.

Anyway, it was particularly interesting that when surviving members of the Department of Forests, as it was called back then, were asked to comment on that legislation and two other pieces that were passed at that time they called it "window dressing, intended more for political showmanship than for actual administration." I feel there is stronger will now because there's a lot of public pressure that the forests must be managed for multiple use and sustained yield, and certain legislation has been passed to move us in that direction. We cannot let whatever legislation is about to be modified or redrafted to be only for political showmanship rather than actual administration.

The history in the last five years within the Ministry of Natural Resources has been very rocky. They have lived through reorganizations to a nightmarish degree. These people have been moved around; they have been threatened with being moved; a number of people have lost their positions. The purpose of them being there in many cases has been shadowed or lost because there has been so much energy focused on reorganization and what's going to happen next.

The structure needs to be put in place, and then let's get on with the work of managing our forests for sustained yield. Let's not have history repeating itself, that 10 years from now we're calling this process only window dressing. This is the turnaround decade and many of us recognize that decisions made now—we'll never have another chance to choose another direction because there is so little left.

In the past, economic success in forestry has been defined by the dollar value of goods and services produced, exchanged. Typical gross national product has been the measure of success. The world is changing, times are changing, and the economic model is no longer acceptable to many people. An economic model I'd like to refer to is called the green economic model, by Eakins. He identifies three criteria: community, sustainability and environment.

With community we're looking at people working together, we're looking at people having control over a resource in their neighbourhood, and we're looking at jobs that are long-term. Generally, we have been looking at employment in the forest industry as, let's just keep

those jobs there for another two or three years or another five years, and we're not looking at it long-term and looking at it as a sustainable resource. When you look at the green economic model, using community as one of your criteria, the emphasis certainly does shift and there needs to be control at that level as well.

Sustainability is the second criterion of that economic model. With sustainability you've already heard a great deal today, I'm sure, about ecosystems and their fragility and the need to maintain that complexity and the health of that complexity.

Environment is your last criterion. Once again, you have your criteria which apply to the community and apply to the larger community, whether it's the region or the province, the continent or the globe. We are impacted by things happening in faraway places right here in the Algoma area.

When we look at jobs, current forest practices and the ones that have occurred for many years have tended to deplete much of the value of the forest. The newest job opportunities are seen only in terms of mills that will use chipboard or the lowest grade of wood that is still remaining. That's not sustainability and that's not building community and it's not building environment. There certainly needs to be some way of modifying this way of looking at the resource. I would go back to a point that Robin just made, of the need for education.

With our urbanization, there has been a great disconnection of people from the environment and there is very little awareness of what this choice today, about a hundred things we do, has an impact on. Frankly, that's what my business is about: trying to make people much more aware of the connections between the choice of what kind of paper you use, whether it's a recycled paper, whether it's a hemp-based paper, whether it's a wood-based paper, and what the impact is on the economic system and what the impact is on the environment. The more education that can be brought out to make people more aware of the impact of those choices, the more effective you're going to be and also the more effective we're going to be in needing less wood pulp in the first place.

1510

I haven't seen any references to alternatives to growing trees on some of these sites as a source of pulp. I don't know if any reference during these hearings has been made to hemp or to sunflowers or some of the other fibre alternatives. I think those need to be addressed when you are looking at management of forest lands and a timber act. Hemp is a product that can be grown on a lot of—

Mr Hodgson: In basements.

Ms Fleming: Yes, it's grown in basements, but I'm talking about the low-level stuff that doesn't give you a buzz. Sorry about that. It grows throughout the Algoma area, and there are soil conditions here and in many other parts of the province that would support it, including areas such as the tobacco belts. They're struggling desperately to find alternative crops to grow on those soils as they're no longer growing tobacco. Those are potential sources of pulp that I think need to be looked at

very hard. Yes, the world demand for pulp is going to continue to increase as the demand increases, especially in Third World countries. That's reality. However, I don't think trees are the only source of pulp. It's only for about the last 150 or 200 years that wood has been used to make paper. Prior to that, there were many other things used instead, whether papyrus in Egypt or whether rags or other plant fibre. Those are other sources of fibre for paper and I think that needs to be strongly addressed in what we're talking about here today.

There is a reference in here to auditing, and I made reference earlier also to the fact that the Ministry of Natural Resources has had its numbers cut drastically. The number of officers has been reduced. Because you have your offices being amalgamated, you have staff unfamiliar with many of the areas they're responsible for, so it's very difficult for them to be able to make well-informed decisions. How are you going to compensate for this and how is this really going to work?

As a member of the public, I need some reassurance that there are good things happening out there. I think you're well aware that the public has lost its faith in a lot of things that have been happening in recent years. There's a need to rebuild that faith. How do you do it? I think information is important and I think honesty is important, expressing honestly that in many ways there have been some very poor decisions made and we've paid a price for it, and saying, "Here's what we're doing to try to make it right." There has been a feeling that we can't possibly admit that we're wrong or we've made a mistake; we just gloss it over and move on. But I think the public would appreciate more honesty in what's happened historically and the promise that they will be kept properly informed of what you're working on now.

There are certainly many publications being produced at both federal and provincial levels, and here is a sample of them that are trying to get the word out. I think you are handicapped by information overload, that the average citizen is just bombarded with information from everywhere. It's important to package the message in such a way that it can rise to the top of all that other stuff that they're being fed.

It's a challenge and I don't have the answer, but I think these are really important issues that you need to take a look at very closely. There aren't going to be very many more chances for us to have another shot at dealing with the forest resource of Ontario.

That's all I have to say. If you have any questions, I'll do what I can to answer them.

Mr Bisson: First of all, thank you very much for your presentation and reminding us sometimes to remember that we have to take the time and appreciate what we've got, because sometimes we're in a little bit of a hurry to get what's in there.

Ms Fleming: That's right.

Mr Bisson: I just wanted to touch on something you've talked about, sustainability. Coming from a mining community, as do a couple of other of my colleagues, where we've seen communities that have been really been affected, like Ear Falls when an iron ore mine

closed down, or Kirkland Lake or Temagami or Matheson or other places, I think we understand very well the effect on a whole community and what happens when you have a resource that is not able to come back. I guess that's one of the lucky things that we have with forests. They're self-generating. If we allow them half the opportunity, it's amazing what could happen in regard to keeping that in place.

It brings me to the question of when you talked about the definition, and you're not the first one to raise it. Other people have done the same. What we've been hearing is people saying, "We really want to have some clear benchmarks when it comes to the whole question of definition within the act."

I think back to some other discussions I've had around other pieces of legislation where people have talked and said, "Well, one of the problems is when we try to define things a little bit too clearly when it comes to things like that." I'll speak specifically, for an example, in regard to MISA when we were trying to come up with the definition of what the emissions would be under AO_x and other things. Some people were saying, "We need to define that fairly clearly," but the definition changes all the time, because our technologies are getting better, our understanding is getting better, so the definition is never the same.

I'm not wedded one way or another, but I really wonder, would we not be limiting the definition of sustainability by trying to really clearly spell it out in the act, or am I just—

Ms Fleming: If I could trust the people who were doing it that they had a similar view to myself or were on the same path as myself in terms of knowledge about the existing technology and the importance of the resources and how they fit into the whole social and ecological fabric of our province and of our planet, I would be happy not to have it in there, but I don't have that trust, because the results to date haven't given that to me.

Mr Bisson: Do I have one second, just to follow up? I'll tell you what my problem is. One thing I have experienced in four years of government is that I think one of the mistakes we've done over the years in putting legislation together is sometimes—and this is going back 100 years; this is not just under this government—we've tried to be encompassing everything under legislation and to a certain extent we've sort of boxed ourselves in in some cases in having the flexibility to deal with what's happening around us.

I guess that's where I fear, and I guess the comment I would make is that it seems to me what we have to have is an informed public. If we have a questioning, informed public that is willing to take their governments and their elected officials and be accountable, I would much prefer to see a little bit more flexibility about how we define things in legislation, because I think we run into a problem if we really try to close things in to such an extent that there's not enough room to move and be able to deal with changing technologies, changing economies, all of the things that are out there.

I guess I'll just hear your comments on that. Are you still of the opinion that we've really got to corner this in?

Ms Fleming: I think it comes back to trust again.

Mr Bisson: "Trust me."

Ms Fleming: Trust you, yes. I still believe that it comes down to trust, and I've been involved in public advocacy, environmental issues and specific causes and so on and felt that I was talking to the wind far too often. There needs to be something in there that gives me the feeling that I'm really being heard and that what I'm saying is being considered. I haven't just taken my afternoon today to come and talk to a circle of people for a period of time and then I walk away and it doesn't matter and you can say you have done your duty by giving the public their say and so on. It's a two-way street. I don't envy the role that you are in either.

Mr Bisson: We love it. That's why we run for the position.

Ms Fleming: You are hearing from a lot of different people with a lot of different viewpoints, and I don't envy that role at all either. But I know, as a citizen who is very concerned about a number of issues and who is active about a number of issues, I burn out from time to time because I feel these things are important and I do my best to say them by letters, by conversations, by occasional hearings of this nature, and it doesn't feel like it's working and it doesn't feel like it's enough. If you can come up with a way of making that feel better for me, the citizen, then maybe I can trust that it's not as necessary to have as tight a definition of sustainability, but there are a lot of riders on there as I say that.

1520

Mr Brown: You have raised a number of interesting points, and one of the things I think that is wonderful about being a member of the Legislature is that we tend to know a little bit about a lot of things and not a terrible amount about specific things. So we come here as generalists, and to have somebody come and talk to us with more specific knowledge is always good.

But some of the things that I guess we're hearing, and we've heard from the ministry, are some things that I think would cause some confusion in the mind of a generalist. One of those is, the ministry is suggesting that there's a 50% increase in harvesting available out there. In other words, we could increase our harvest of the forest by 50%. Then I hear a presenter such as you, and others, come before the committee and suggest to us, "Well, gee, we've been pretty terrible stewards of the forest for 150 years or 200 years" or whatever, and yet the ministry is suggesting and some studies have suggested that a 50% increase in the amount of cutting could take place.

I just wondered if you could help me resolve that in my own little mind.

Ms Fleming: How long do you have?

The Vice-Chair: About four minutes.

Ms Fleming: Oh, darn. Well, there was no time line given. If you want to increase the cut by 50%, that's fine, but the number of jobs that will be available for the time line will be substantially decreased, and I cannot possibly believe that it can be increased by 50%. You're calling that sustainable. First of all, it's absolutely impossible

from anything that I've read—

Mr Brown: I'm not calling it anything.

Ms Fleming: —seen or know. Secondly, they don't say in those figures what kind of wood they're cutting. In the past, they weren't cutting a number of different species and using them, and now there are plants available where they can use some of the scrap species that in the past would have simply been abandoned. So maybe that's where part of the 50% is coming from. I don't know.

There's lots of reading material around. If you had time to read it, sir, I think that would give you a much broader viewpoint on—

Mr Brown: I'm just trying to resolve these and I think over the next three weeks perhaps we'll get a little closer.

Ms Fleming: Okay.

Mr Brown: You've pointed out that the ministry is undergoing tremendous reorganization, downsizing, and it appears even to a dispassionate observer like the opposition critic that the Ministry of Natural Resources has been on the bottom of the list when it came to going to the Treasurer.

In the new stumpage regime that is being proposed, you will probably be aware they have something called "residual value." If prices for lumber, for example, are quite high, then the government charges more to the industry, and that seems fair. At least some people would think it's fair. But that money goes to general revenues. That isn't dedicated to the forests.

It seems rather odd to me that the residual value, the profit that the government intends to make, so to speak, is then allocated to something called consolidated revenue rather than put back into the forest. We all know there are deficiencies in the forest that can't be addressed at funding levels now, and yet we're going to take more money out of the northern economy and send it down to Mr Laughren or his successor that won't be spent in northern Ontario or on our forests? Any thoughts on that one?

Ms Fleming: Yes, strong thoughts. I wish I could understand the accounting system of the government. I don't understand why the money coming out of the forest isn't going back into the forest if it's going to be a sustained crop and therefore sustain the economy of that part of Ontario. It doesn't matter whether you're talking about a tire tax that goes into general revenue or stumpage fees that are going into general revenue. I can't justify that in my mind at all. It makes no sense whatsoever. It's really continuing to rape without any kind of repair, replanting, regenerating—however. That's not sustainability. I don't care how you put it; it's simply not sustainability. We're talking jobs, we're talking communities, we're talking quality of life, we're talking about environmental quality. All of these issues are at stake and there are a lot of people who are being affected.

Mr Hodgson: Thank you very much for coming before us. You mention education would be the key to this and that the 1990s is sort of the last time frame that we have to correct a lot of these problems.

What I'm getting at is, you're obviously not happy with the status quo, the way we've been doing forest operations and treating our forests not as a whole ecosystem. Do you ever watch a TV show called *Connections*?

Ms Fleming: No.

Mr Hodgson: Life often has unrelated consequences to what rationally we can predict with the information we have available to us today. The faith of the population—wanting the government to somehow walk on water and solve all these problems I don't think is realistic today. We're trying to do the best job we have with the information that we have available. The option of just standing still until we have further scientific data, by your own definition isn't an option because the status quo isn't working.

Ms Fleming: I agree.

Mr Hodgson: So do you have anything specific that you'd like to see us take into account in the forest management that's not mentioned in this bill or just in the preamble?

Ms Fleming: Generally, I would like to see it stop being an adversarial topic. I think much of government is seriously weakened by this adversarial—

Mr Hodgson: There are improvements in that regard, though. For instance, the town I come from, we have a mixed economy of tourism and lumbering and we're offering ecotourism courses.

Ms Fleming: Right.

Mr Hodgson: I think it's evolving. I don't know if you would call it a green economic model, but there seems to be a consensus developing around that.

Ms Fleming: I think it's beginning, yes.

Mr Hodgson: But we're limited with the scientific knowledge that we have to implement it. What might look rational today might have an unintended consequence in 20 or 30 years, and I don't think it's because of the lack of good intentions on behalf of the government; I think it's just a lack of information.

Ms Fleming: I think we come back to information overload, that there's just so much information out there. Mr Brown mentioned that he had been unfamiliar with some of these issues and I'm sure the amount of printed material that you folks are faced with in any given week would bury you completely.

How do we get this information into packages of sufficiently small size that you can actually read them and understand them and then apply that knowledge to your decisions, because I'm sure most of you are not foresters by training and yet you're supposed to be making decisions that have a great impact on forestry. Trying to sift through the knowledge that is there: Yes, there's been a great leap forward in knowledge about scientific things and the connection theory, as you call it, where for many, many years science was celebrated as being able to tell you everything about that little red light, but it had no idea of the impact of that light on that person sitting back there.

While many of the writings of the people talking about the new forestry, particularly on the west coast, Chris

Maser, Herb Hammond and some of those, have done a lot of research on those impacts and given us a lot more insights as to what happens if you trap or poison the mice in a clear-cut area because they were eating the seedlings, when in fact they discover that the faeces of those mice are important for making certain nutrients available to the trees. There's all kinds of interactions that they do know about now. They certainly don't know them all, but they know a lot more than they used to and they can make more educated decisions. We call this the age of the information highway, and it's trying to process that information. There's a lot out there that we just aren't able to take into account in our decision-making because of this overload.

1530

The Vice-Chair: Thank you very much, Ms Fleming, for your presentation. The time has run out. Certainly you did very well with what you consider quite a short preparation time. I think you left a lot of thoughts with us. It is appreciated, even though many of us are not experts in the field, but I think some of the issues that you raise go far beyond the forestry expert question and are of concern to all of us. Again, thank you for appearing before the committee.

Ms Fleming: Thank you very much for coming to Sault Ste Marie.

LAJAMBE FOREST PRODUCTS

The Vice-Chair: The next presenter is Mike Barker. I understand he's here from Lajambe Forest Products. Would you have a seat, please. I think you have heard that it's half an hour, and if you have something in writing that you can leave with us, it would be appreciated. You can spend the half-hour whichever way you want, but some questions and answers would be appreciated. Please go right ahead.

Mr Mike Barker: Thank you very much, Mr Chairman, gentlemen, ladies. I appear to be the only representative from the forest industry on your agenda today. Since this is the first day of your deliberations, perhaps I'll take this opportunity, on their behalf, to welcome you to northern Ontario, those of you who aren't, and to the forests of Algoma and to a very challenging and important task.

For Lajambe Forest Products, I can also say that we support the principles of Bill 171. We view it as probably the most important forestry legislation in decades. I can say with some trepidation that we're ready for the changes that it presents and I can say that we wish to participate fully and constructively in its preparation.

I have two points that I'd like to raise today in the time allocated. I'm sure there are many others that need to be raised, but I'll count on my colleagues to do so in the coming weeks.

My first point is that the tourist industry should be bound by this act, as is the forest industry. For some years now, MNR has been engaged in increasingly complex and contentious timber management planning exercises. In many of these, MNR has the role of arbitrating between the loggers and the tourist businesses that propose to limit or prevent harvesting because these

operations are detrimental to their business interest.

Now, tourism is an important economic enterprise. Just ask any tourist operator. We agree and we respect their desire to be in that business. We are prepared to work with them cooperatively wherever we can so that both parties can achieve their business objectives. All we ask is that both businesses that require the crown forest be bound by the same legislation, and we're not satisfied with how the proposed legislation deals with that issue.

The act, as it's laid out now, takes two sections to address the situation of the loggers and harvesters and the other businesses. In section 23, it appears to apply to those who would "harvest forest resources." There's no definition of "harvest" in the act, but I assume that section applies to logging operations. In that section, those granted licences must prepare inventories and management plans, must conform to silvicultural and other standards, must make reports, must have their performance reviewed periodically, must pay crown charges and must pay fines if they don't operate according to their licences. That's section 23 and, as far as I can tell, that applies to the loggers.

Section 24 states, and I'm just quoting so you won't have to look it up, "The minister may" grant other licences for those who wish to use the forest "for a designated purpose."

Then it goes on to talk about the licence requirements, and it's very much less specific than those in section 23 that I spoke of.

There is some clarification of this in the draft regulations under paragraph 1, and in the draft regulations they say, and again it's a quote, "A possible future example of this is protecting an area for the tourist industry."

That's pretty tentative stuff. There's no talk of plans; there's no talk of reports; there's no talk of performance reviews or, most notably, of crown charges or fines. And what's this about protecting areas? From what? Logging? As far as I can tell, according to the act, logging is an acceptable use of the forest. In fact, it's essential if the objectives of the act are to be met. So the wording of that portion suggests a troubling mindset to those of us in the logging industry.

The intervention of tourist enterprises in the timber management planning process to protect their business interests can cause considerable additional disturbance to the forest. That kind of disturbance is caused by loggers building extra roads to replace those now claimed by tourist businesses, by loggers building many additional kilometres of roads to protect or avoid a portage or a trail used mainly for the business purposes of the tourist operation, and by logging operations prohibited in certain areas at considerable economic and job loss because of the public access that their roads will create.

Speaking for Lajambe Forest Products, and I'm sure for many of the other members of the industry, we recognize and respect the right of the tourist industry to conduct its business in the forest. I say again, we're willing to work with them to avoid conflicts. We recognize it will take patience and understanding for us all to co-exist out there, but the forest is too important

and it's too small for each business to have its own area set aside for its exclusive use.

So our request: Bind them by the act so that they pay their fair share for the land that they use and are governed by the same rules as our business. All we're looking for is a level legislative playing field on which to conduct our relations with other forest-based businesses. Both groups should be clearly identified as requiring forest resource licences defined in section 23, that first section that I spoke of.

MNR's policy framework for sustainable forests recognizes that problem when it states, "Users must pay for their use of the forest in relation to the benefits that they receive."

My second point can be stated quite a bit more briefly, although it's no less critical. That act that we're dealing with here is a framework. I'm sure you all recognize that, and we all recognize that the guts of this legislation is in the manuals and in the regulations that flow from it.

It's time that we had this act and it's time that we got on with things, but in order to do that, it's our perception that they've had to rush this thing to print to meet the tight time lines. I think that's the result of a very good effort on the part of MNR, to crunch this stuff out and get it into our hands, however late it may get there, but it is obviously a work in progress right now, especially the manuals.

We think that the manuals and the regulations need much closer scrutiny before the bill goes to the House, so I'm suggesting that you ask MNR to do another round of stakeholder reviews and report back to you on these manuals. Don't amend the schedule; just ensure some special attention is paid to the manuals and the regulations.

1540

I'm not suggesting delaying the legislation, but only making sure that issues such as I've put on the table this afternoon having to do with the tourist industry get an opportunity to be fully discussed before the door closes on them with the third reading.

Thank you for your time and consideration. It's been a pleasure, and I'll be happy to try and answer any questions I can.

The Vice-Chair: Thank you very much, and the first person to have a question is Mr Ramsay.

Mr Ramsay: Welcome, Mike. We've dealt with each other in government. Nice to see you prospering in the private sector, and thanks for coming before us this afternoon.

I was quite intrigued by your suggesting that we should have a level legislative playing field for your industry and the tourism industry and I think that's something that should be discussed. You sort of asked the question, where there are incredible requirements now under this act for forestry companies in laying out their plans and doing their studies and there's incredible accountability here being demanded of forestry companies, you're saying the same thing should be applied to tourist operators.

Without arguing that point, because you may be right,

I guess what strikes me as to why that's in here is that you're into a consumptive type of operation, and by and large I would guess most tourist operators—you know, there's fish taken out of the lakes etc, but it's fairly non-consumptive and I guess a lot more benign in operation than forestry. However, you make the point that we should be assured that we are getting value as the crown from that industry, and maybe we should be spelling out some more requirements from that other industry.

I can certainly see they may not be quite to the same extent, because your operation is quite a different type of operation in the forest than maybe somebody working on a tourist lodge, but what you're saying is equal accountability, I take it. Do you want to expand a little more just on that whole principle? It really is a different type of operation, but—

Mr Barker: Yes, it's different, Mr Ramsay, and of course we recognize that, and the terms of the licence under that section 23 that I mentioned are perfectly able to take that into account.

It's a question of having everybody who's at the table rolling with the same dice and being bound by the same rules. It's easy to object to something if you don't have to pay for the results. I think people would feel differently about objections or about suggestions if they in fact had money on the table that they were going to pay for crown rent or for crown charges or if they were going to be held accountable for the plans they propose.

In terms of the consumptive nature, of course logging is a consumptive use. I don't see that as a negative thing. Consumption up to a sustainable level is in fact desirable, if I understand the legislation. So it's a matter of, as long as we don't consume more than what is sustainable, and we certainly don't wish to do that, then it's a matter of, will we have sufficient quantity that's consumable for us to be sustainable, and that's the risk at the moment. The amounts that may not be available to us because they're made available to someone exclusively may affect our sustainability and the credibility of the act as well.

Mr Ramsay: Okay. Another statement you'd made is that you object to any sort of user having exclusive use of the resource. Again, as has been said around this table, that's difficult to come to grips with, because I suppose at the time you're cutting you kind of have exclusive use of that piece of land, then over years other users can come on to the land, whether it's harvesting blueberries or doing whatever.

The nature of remote tourism, is to offer a certain type of experience that probably does exclude a lot of other users. We could say unfortunately, but that's what that attraction is, and I don't know how we rationalize that. You would be against giving any sort of exclusivity to any group, even if they be so small a part of the economy? You think everything should be multiple use?

Mr Barker: What I'm saying is that a group that wishes to have exclusive use should be licensed and should go through the same process as we do.

Mr Ramsay: And pay for the privilege.

Mr Barker: And pay for the privilege.

Mr Brown: Just along that line—and thank you, Mr

Barker, for coming; I think you're making some interesting points—I'm wondering why you chose just the tourism industry. There are others out there. There are the hunters and anglers of Ontario who believe they have rights to hunt and fish in all kinds of areas, and your operations often impact on them. I'm thinking of crown land for development use, crown land use permits, a whole range of things that are there.

You make a very interesting point, and I think one that the committee has to think about: Why are there not obligations? If we're talking about sustainability and multi-use and all these nice things that we all talk about, why is it that in this act the only people who have any responsibility or onus put on them are the people actually harvesting? It's just an interesting point and I'm glad you raised it.

Mr Barker: If I may, Mr Chairman, an important point to keep in mind is the interest of the public in this whole exercise. I'm in no way suggesting that members of the public should have to go through the same process that businesses do. In excluding anglers and hunters and fishermen, I'm considering them as members of the public and as such know that their rights and their obligations will be met by the government at large.

Mr Hodgson: Thank you very much, Mike, for coming today and expressing this to us. Your company operates roughly five sawmills and you have a lot of crown management areas, but you also import logs from Michigan and places to try to keep the sustainability of the local economy alive. Do you see this act as helping? The bottom line in business is that you have to be competitive. I suppose your competition's not only here in Ontario but in the international market. Do you see this act as helping in the sustainability of the jobs that you provide to these communities?

Mr Barker: That's a difficult question to answer. The act is necessary, and sometimes you have to do difficult things to do the right thing. The right thing to do is to harvest and to manage the forest sustainably. That's going to make it difficult for us to operate and it's going to cause us to have to operate more in the United States and buy logs in a way that threatens our sustainability, but it's what we have to do. We recognize that and we're prepared to do it.

Mr Hodgson: Our party's been producing papers and meeting with groups to try to make it so that all business in Ontario is competitive and from that sense be sustainable in terms of creating jobs, not only in the short run but in the long term, the private sector creating real jobs for people, to improve our standard of living here in the province. That pays for the social services that we receive and the health care that we take for granted.

Do you see anything that the government of Ontario could be doing in conjunction with this bill? I'm thinking of WCB rates, the cost of hydro, the taxes. Do you care to comment on that?

Mr Barker: I'm sorry but I don't.

Mr Hodgson: You don't? Okay.

Mr Barker: I'm not well enough prepared. Sorry.

Interjection.

Mr Hodgson: That's another day. Okay.

I've just got one more question in regard to this framework of legislation, as you call it. It also sets up the framework for the new business relationship or what's referred to as the Carman exercise. Do you have any comments on that, in regard to how it fits in with this act?

Mr Barker: It's painful for the industry to have to accept these extra costs. The money has to be found somewhere to pay for the regeneration, but I think generally the industry has accepted that responsibility. I feel that probably any concerns that remain are more in the how-tos rather than the principle, because we do subscribe to the principle that if you take it out, you've got to put it back in. Somebody has to do that and we feel competent to do that, but there is plenty of jockeying and negotiation and arguing that has to be done about the actual how-tos of that exercise.

1550

Mr Hodgson: Just finally, will you provide the committee with specifics on how you'd like to see this bill amended?

Mr Barker: I'd be happy to. I avoided doing so, but I would be happy to do that if you'd like to see that.

Mr Hodgson: If it's okay with the Chair.

The Vice-Chair: If you do that, send it to the clerk. We appreciate it.

Mr Barker: Fine.

Mr Hodgson: Thank you very much, Mr Chair. That's all the questions I have.

Mr Carr: Mr Barker, just one quick question also. In terms of the industry, maybe you'd just give us a bit of an overview of what has happened to your industry, the number of players and the number of jobs over the last few years. Obviously, you've been a survivor. Maybe you could just very briefly give us a bit of an update of what's happening to some of the other people. Where is your industry standing now in terms of numbers and employment and so on?

Mr Barker: My knowledge of the state of the industry is certainly not encyclopaedic, but I can say that the industry, as with other industries in Canada, has managed to survive the recession. Things are looking up for our industry, as they are generally in the economy, and we're convinced that there's a bright future for the forest industry in Ontario, and we believe that there is a forest resource there. If it's managed well, it will provide what's necessary for us to be here for ever, because we intend to be here for ever, and we intend to use the forest, each part of the forest, over and over and over again.

For example, the areas that my company currently logs in the Algoma area, many of them have been cut once or twice before. We're going back for the third time. We expect to go back for a fourth and a fifth time. As things grow back, we'll go back and harvest them, the same as you would in a garden, and that's our expectation.

Mr Carr: Thank you. Good luck.

Mr Bisson: Thank you very much, Mr Barker, for

your comments. I'm just interested, though, in your comments basically the whole premise—and I guess it's one that most people wouldn't argue with—is that if you're going to utilize the forest, everybody should sort of pay their fair share I guess is what the bottom-line message is. But I want to go a little bit past that, because I find it somewhat intriguing.

I heard you at one point, and I think I misunderstood you and that's why I want to clarify it, that you were basically saying something along the lines of—I've got it written down; I'll just do the best I can—protecting areas for tourism. You were talking about—I can't remember how you put it, but here's the gist of it. I'll try to be non-combative. I guess that's a problem I'm having right now.

What you were basically saying is that you want to work with tourist outfitters, but you want to make sure they're bound to this act and you want to make sure they pay their fair share. But how do you define that fair share, because the revenue that you generate with a hectare of land or an acre of land is obviously a lot different than what they would generate with a hectare or an acre of land. How would you define that, first of all?

The second thing is, are you then saying, if your value is higher, then maybe you have more tenure to the land or to the use of the forest?

Mr Barker: Mr Bisson, I'm not competent to define the value of a tourist operation or even of a logging operation very well, because there are all kinds of intrinsic values that go with both. I couldn't do that. That's the job of the land owner, of the landlord, and in this case the government is represented by the Ministry of Natural Resources.

I would expect those definitions to be made on a case-by-case basis, depending on the situation. There are many different kinds of logging operations and they're charged different rates for different things. There are very many different kinds of tourist and other businesses that do require and want to use the forest that I think should be paying, and I would count on the Ministry of Natural Resources to devise a system of fees for that.

Mr Bisson: But is your view that the tourism business is not paying its fair share for the use of the forest? Is that sort of the premise?

Mr Barker: No, it's not, but I must just respond to your second point to cover that. It may appear as though my whole premise is based on the idea, if I can set these guys up so the value is lower, then everybody will say: "Well, that's fine. Obviously, logging would earn us more. Let's do logging."

Mr Bisson: That did cross my mind.

Mr Barker: I'm not doing it for that reason. I'm quite certain that, in its wisdom, the government or the ministry or whoever would say that there's benefit in having a balance of industries, of businesses, in this area, and let's take a look at what the best balance is. It's in that exercise of bringing the balance that we'll get a better situation than we have now, where we're up there and everybody's shooting at us.

Mr Bisson: Ahh.

Mr Barker: Let's get us all together where we can talk together on an equal playing field.

Mr Bisson: Now I've got you. Thank you.

Mr Wood: Thank you, Mr Barker, for coming forward and raising a number of points. I want to just touch on the point that you raised on the manuals, that the manuals are really the meat of the legislation and that the legislation doesn't mean anything without the manuals.

I want to make a point that in the briefing this morning over a couple of hours, our MNR people pointed out that based on what we hear here and the stakeholders out there, any information that they have is going to be incorporated into updating them in September and the beginning of October. So the point you've raised that that has to be done, the commitment is there that it's going to be done.

The Vice-Chair: Thank you very much. We certainly appreciate your presentation. You can be assured that you won't be the only presenter from the forest industry. We're going on to other places, but we did appreciate your welcome.

MARK CROFTS

The Vice-Chair: The next presenter, Kathleen Brosemer, unfortunately cannot be here. However, she has sent someone else and, with the permission of the committee, we can give this gentleman the opportunity to speak. Mark Crofts. Perhaps you could introduce yourself and tell us what the relationship is between yourself and Ms Brosemer. You have half an hour.

Mr Mark Crofts: My name is Mark Crofts and I'm a resident of Sault Ste Marie city. Kathy Brosemer works with a community group called Clean North, and she unfortunately was not able to be here this afternoon. I met her at another meeting this morning and she said, "Could you take the opportunity that I'm going to have to pass up this afternoon?"

I'm not speaking on behalf of Clean North; I'm speaking on behalf of myself, my family, citizens of Sault Ste Marie only. If that meets with the committee's approval, I'll proceed. As a couple of the previous speakers have mentioned, unfortunately I have not had a lot of time to prepare for this presentation. Please bear with me.

I did take an opportunity to dig through a couple of pictures. Again, I represent here myself, my family. I've got a daughter who's four years old and a son who's 16 months and I guess, in my heart, I want them to see the forest that I have had the benefit of seeing. I'm a young person. I've had the benefit of seeing a lot of areas of the province and I want my family to enjoy the natural treasures that this province has.

I'm very concerned about the responsible stewardship of the local forest. I'm certain that it can provide the jobs from the forest industry, the tourist industry, and everything in between. I'm sure that can happen without the degree of conflict that is so unfortunate about the present situation.

I'm certain, though, that we have to start thinking about forestry beyond the next 24 months. Where is the next allocation going to be? We have to think 50 years

down the road; we have to think 250; we have to think 500 years down the road. That's not something we've proven ourselves to be very good at.

We have to look, I think, at where we have a competitive advantage in forest products. Do we really have a competitive advantage in chipboard and oriented strand board, or does this country have a competitive advantage in oak and cherry and white pine, sawlogs and veneer logs, the top-quality wood that you just cannot grow anywhere else in the world other than on this continent?

I'm concerned with the impact on local jobs. My family's here; I'd like to keep them here. If the sawmilling industry were to end, one of the job options that my kids would have would cease to exist and that does worry me.

1600

When we're talking about the piece of legislation that we've got before us, I guess my key concern would be, what is sustainability? Again, a couple of speakers have noted that earlier this afternoon. Nowhere in here could I get a clear sense of what forestry sustainability is. I would implore you to make sure that is in the document and to make sure that it's a holistic definition, not a strict legal definition.

This is a picture of a forest—I'll pass it around—that would be typical to areas that have been harvested before. This is what you call a plantation, and this is, in some people's minds, sustainable forestry. This is red pine and it's planted in rows, very, very nice, much like a garden. We heard that being referenced.

So there's a picture of one end of the sustainable forestry continuum, analogous, really, to a cornfield. We can use that land area as a farm. We can produce these trees in rotation. After a hundred years of growth, we'll go in and cut them down and we'll plant some more and we'll go in and cut them down again a hundred years later. I don't know if that's sustainable forestry. I would argue that it's not.

I don't normally quote Peter Newman. He writes in Maclean's magazine. I don't normally quote him as an environmentalist, but he had a really interesting article in a magazine a couple of months ago and he talked about the changes in trees, trees that are grown like corn. They grow faster so the growth rings are wider apart usually. He's arguing here, referring to a scientist, that the trees are not the same; the wood quality is not the same.

So in that picture we have a sustainable forest, but is the product that's coming out of it really what the industry wants? Is it what the end user really needs? It might be white pine but it might not be as strong as the first growth, the old-growth forest. It might have different characteristics.

I guess the other end of the continuum is an ecological definition of what sustainability is, of what sustainable forestry is. I must applaud this government for doing a lot of work related to forestry. You've got this report that you can refer to, the report of the Ontario forest policy panel. There's the Old Growth Policy Advisory Committee. You've got a report just issued from the Environmental Assessment Board related to class environmental

assessments for timber management activities on crown land. They all make some very interesting recommendations, some good, some that I don't personally feel go far enough.

But you've got a lot of information at your disposal, and I would urge you to strongly look at the ecological definition of what sustainable forestry is and test that definition. Test it against a couple of different interest groups. Test it against the tourism industry, test it against the blueberry pickers, test it against the sport fishermen, test it against the native community and see if it stands up as a true definition of sustainable forestry.

If it does, then write it down in the act, clearly lay it out in the manuals so that the area forestry people, whether they're forestry-trained or biology-trained or community development-trained—because I think a good thing that's happening to forestry is that we're getting a lot of different people involved in the industry now, not just the classically trained professional forester. Test it against all of those people and put it in the manual in terms that they will understand, in terms that they can relate to on-the-ground activities every day.

I've got an article that was in the local paper here not months ago: "The Ministry of Natural Resources prescribes a tough remedy for junk forests. High-grading ending: Lajambe told to install lower-quality measures." The Minister of Natural Resources was here a couple of weeks ago to talk about project sustainability, how local woods industries are going to have to adapt their plants, their machines, for lower-quality wood.

Going back to my son and my daughter, I don't get the sense that's sustainable forestry. I get the sense that the acts that we've had, the legislation that we've had before lacked something, that there was something missing. The intentions may have been good but the people who design to make sure that those are carried out into everyday practice in the field—it didn't happen. The minister said that the forests are junk forests because of 80 or 90 years of poor management, and I don't think he meant that was 80 or 90 years ago; I think he meant that it's continuing up until the present day, as we sit here.

It's got to be laid out, the terms of sustainability and what it means on the ground, in the forests, at the front or the back end of a skidder. It has to be laid down so that everybody can understand it and so that we can audit it later on.

One of the critical things I believe also is that we should set aside very large areas, watershed based, that we don't do anything on, because as we learn more, I think we get a sense of how wrong we were in the first place.

One case I want to illustrate is the sugar bush; again, a truly Canadian thing. For a millennium the native people used the sugar maple as a source of—it was a forest product, one of the first, very sustainable, I would argue. Then along came the scientific methods of forestry and the scientific methods of business and now we've got reverse osmosis machines, we've got gas-fired evaporators and we've got problems with overtapping. How is that impacting on what should be the most sustainable of any forest resource? You don't even have to cut the tree

down. You can harvest that resource year after year.

Now I hear worrying ideas about maple syrup orchards. We can plant these trees just like a garden and we don't have to worry about the trilliums and the dogwood and the alder getting in the way. We can just plant maple trees and that'll be really nice because they'll be evenly spaced and we can drive the tractor down the rows really nicely; easy to tap. We can plant them on a hillside so that the lines will drain automatically. Is that sustainable forestry? Or will we discover, like we have in sugar bush management, that the other species of the forest, the other tree species, the other shrub species, little critters in the ground that we don't even know what—we haven't named them yet, that there are all these interactions there between the maple trees and all these other beings, that we don't understand.

By going back to the industrial forest, I guess, I think it's important that we set aside very large areas to leave them alone because it might be that in a month or two years from now or three years from now or 50 years from now: "Oh, we've been doing it all wrong. We've got to apply our expertise in a different way."

I'm using that point to describe the continuum between ecological forest sustainability and industrial forest sustainability. When you hear the word "garden," they're talking about, "We're going to manage the forest like a garden," I become worried. That's industrial forest sustainability. The ecological approach; Nature has proved that it can work. We just have to slow down our consumption perhaps to let that occur, to make sure that we've got the quality wood in this district, around the province, that we've got the competitive advantage for, and let other people grow the low-quality wood for chips and strand board and that type of thing.

1610

I'm not sure of the plans the committee has, but I would urge you, I would implore you to go out in the field and see where sustainable forestry practices are being applied, and hopefully you'll find some areas. Go and see them and then get another group, like the tourist industry or the canoeists' association, to test that. Maybe give them some intervenor funding to provide you with the other side of the story. Is that truly sustainable forestry in their mind?

Mr Bisson makes an excellent point. You're in a position where you've got all these conflicting requests for use of the land. That's a very, very difficult position to be in.

We've seen on the east coast a classic example of where those competing interests have played out for maybe 100 years or more. I would implore you, for the sake of my kids, to take the leadership, as our elected representatives, and set some very strong guidelines about what sustainable forestry is, as we should have 25 years ago related to sustainable use of the cod fishery.

I guess I look at the high-quality wood that should come out of our forest as the terrestrial cod. There's not much left. We can talk about increasing the harvest from the forest 50% maybe. That's fine if you're talking about birch and poplar and maybe alder. There's a lot more of

that now than there used to be even 10 years ago.

But will my kids get to see the high-quality, old-growth white pine forest? Will my daughter get the chance to be a woodworker and work with that stuff and make doors and window sashes and toys and that type of thing? It's a precious resource. I don't think we really realize what we've got there.

I'm not in the business usually of quoting Peter C. Newman, but I think his arguments that he makes here are quite applicable to this situation. I quote him here:

"A tree is not a vertical stick with green fuzz at the top. It's part of a local, regional ecosystem whose value is beyond calculation."

He notes that the dispute about the forest is a dispute about values:

"What kind of society," he writes, "do we want to perpetuate in these northern latitudes? Is it the short-term gain of harvesting wood for profit? Is it worth interfering massively with the essential function of the forests?"

I have and will continue to enjoy the products that come from the forest. I'm not arguing to preserve the whole forest and stay out of it. I think we can use it wisely. We've proven that in some small areas.

But again the main argument I wish to make is that it's essential to get the definition, the field definition, into this act. It might increase the act threefold in terms of volume, but it's important to write those principles down so that everybody understands what happens when the skidder is ready to go into the woods. It can go in in an ecological fashion or it can go in in an industrial fashion. I think it's up to the committee to make sure that there's a good balance there at least, hopefully favouring the ecological side.

I'd like to thank you for the opportunity to speak with you this afternoon. I'm honoured to have had the opportunity to do so.

The Vice-Chair: Thank you for coming. Mr Hodgson or Mr Carr?

Mr Hodgson: Not for me, thanks. I just want to thank you for coming. I enjoyed it.

Mr Carr: Yes, I had one. Quite a few people have talked about the definition and gone into some of the detail, and one of the other presenters, I guess it was Robin, way back said that in the regulations, she's in agreement with what was in there. Have you read the definition in the regs at all?

Mr Crofts: In the draft legislation?

Mr Carr: Yes, the full regulation.

Mr Crofts: No. Sorry.

Mr Carr: So it's unfair to get you to comment on it. As you know, the big problem we've got, and I think everybody's pointed it out, is how do you do it and do it properly, but nobody's really even given us a stab at it as sort of a draft of what they would like to see. Now, recognizing a lot of the people aren't lawyers, and Robin admitted that, and you've talked a little bit about it, is there any way you can even be a little bit more specific in terms of what you would like to see to help the ministry? As I see it, that's one of the problems. They're

being told to be a little bit more definite, but it's difficult to do. Do you think it's possible for some of the people like yourself to really give a stab at doing a definition where you could say, "This is what I'd like to see"? Could that be done, do you think?

Mr Crofts: I think there'd be many people who would look forward to the opportunity to work on that as part of a team, with the industry, with the tourist trade, with the wilderness parks lobby. I believe a lot of it is already out there; it's already printed. Bringing that all together might be a monumental task, but it has to be done.

I think the ministry does have—I'm not sure of this—prescriptions or books to assist the foresters, the biologists in their work in the field, and trying to put a different perspective in those manuals, a more ecological perspective, I think is essential and it's got to be done.

Mr Carr: Just so you know, this is the same thing that legislative committees deal with in putting it in the regulations or legislation. Legislation is tougher to change. There was some talk, and I think Gilles said that with the way things change, in regulations it's much easier to change it. You don't have to come back, open it up, have the crazy politicians debate in the Legislature. Regulations can be changed very quickly. Not only on this issue but other ones, there's some merit to doing it in the regulations.

Most of the people have said, no, put it in the legislation, a couple of them because they don't trust politicians or the political process. That's your recommendation, that you would like it entrenched in the legislation, and giving up maybe some flexibility later on?

Mr Crofts: I think we've got the results right now. We're right at the edge of the next hill. The next hill is stop. There are no more hills to go over to find a virgin forest and that has all happened legally. It's all happened under the tacit approval of all the legislation we've got. We've got it all written down and yet this situation has occurred.

To me, it requires that it be written in legislation in more detail, and that the legislation be described and translated into everyday format that can be used every day by the biologist or the ecologist who leads the forestry allocations in the area. I think it's a two-pronged approach. It has to be in everyday language, but it has to be entrenched in the act as well.

Mr Fletcher: Thanks for your presentation. I'm not sure if I'm a preservationist or a conservationist. I just don't know because, personally—and this is personally, okay? I'm not speaking on behalf of the government or anything else, just my own personal view—I think the forests can take care of themselves. I also think we have enough other products around that could be grown that could make paper, that could make cardboard, that could make anything, and you'd never have to see another tree cut down. That's where I would like to see it go. Again, that's a personal opinion.

I'm coming back up here next week. I'm going on a canoe trip in Killarney, so I'm going to have a lot of fun. That's one of the other things. Ever since I was young,

growing up—I do a lot of camping throughout Ontario—when you go into an area, you leave it the way you found it and you don't mess around with it. You don't rip branches off trees and you don't do things like that.

My father-in-law has a maple syrup factory—I call it a factory—and I'm out there every spring, January, February and March. We're out there doing a lot of things. He does have the pumps and things, but we rotate the trees also, so some years some trees don't get tapped, and he's pretty good that way.

Mr Crofts: He's taking an ecological approach to it.

Mr Fletcher: Yes, and he also has the MNR coming in helping him to weed out the forest, his bush, so that the saplings can grow and everything else. He's also planted. We go round planting different trees and we've just finished planting some white pine, which is nice; there aren't too many of them left.

As far as sustainability is concerned, you've just heard my view. Where do we reach a balance when it comes to that? On a personal level, and I am a member of the government, but on a personal level that's what I would like. I would like to see the forests left alone and they can sustain themselves.

Mr Crofts: Personally, it would be presumptuous of me to provide a definition of "sustainable forestry." I think there are some good ones around.

The main reason behind my coming before you today is to try to give my sense of the continuum of what people think is sustainable forestry. That row on row of red pine is sustainable forestry to some people. Some people think sustainable forestry is to plant up the roads and keep everybody out altogether; that's sustainable.

1620

Personally, along that continuum, I support the wise use of trees out of the forest, but I don't support the industrial use. I don't support the application of industrial principles to that forest, because it's a natural forest. Industry would keep fire out, for instance, but letting fire burn through Killarney might be a good thing; it's happened from time immemorial, and it should happen now. Certain species of trees rely on fire to get started.

Mr Fletcher: That's right.

Mr Crofts: If we don't let fire burn through and we want white pine, then one of the options you'll hear is to spray the forest with herbicide. That's why we need this tending money, that's why we need this forest trust fund, to get into areas with thinning saws and herbicides to suppress all the weed trees so that we can grow our commercial crop of white pine or jack pine or whatever. I don't think we've got the money for that, and I think nature can do it for us if we're just patient enough.

Mr Fletcher: Does someone else have a question?

The Vice-Chair: A very short one by Mr Ramsay.

Mr Fletcher: You can wait for me, then. I have seen these forests that have been planted, and what I have seen also, after time—I'm talking 15 or 20 years, after that amount of time; going by them the first time and going back another 15 or 20 years later—is the undergrowth

that's starting. It's a great forest to play hide-and-seek in, isn't it? You can't get away from anyone. But it's only because they let it go that way and the sun that gets into it. But again, it isn't the right kind of undergrowth that's coming in; it's more of the scrap stuff that's coming in.

Mr Crofts: Well, it's the right kind of undergrowth because that's what nature intends to be on that site.

Mr Fletcher: I'm not sure if it's nature that's doing all of it, though.

Mr Crofts: In most cases it would be, because if you've got a forest like that it would be very rare to have a classically trained forester go in and plant poplar or white birch underneath it. That would be very rare. From a restoration point of view, what that picture likely was at one time was an old field of blow sand. So that forest is much better, from a restoration point of view, than what was there, because at one time it was sand; through farming we had created a field out of it.

There would be a certain element of the forestry profession that would like to see that style of forestry applied up north, and you do see examples of that, where the pine are strip planted in straight rows and we take whatever precautions we can, herbicides or saws, to keep the poplars and the alders and the birch out of there, because that's the crop in our garden.

Mr Fletcher: Is there a problem with tree farms? I mean, really, if a logging company planted here and had them planted and then cut here and left that one alone and replanted and let it grow again and cut here, when they finally come back around, they're ready again.

Mr Crofts: Personally, I wouldn't support that, but that might be an option your committee could look at as a middle ground. We will use certain areas of our land base intensively; other areas we won't use as intensively; other areas we won't use at all. So that might be a middle ground perhaps.

Mr Ramsay: Actually, that's exactly where I was going to come in, because I wanted to get you to try to reconcile for me your dislike for gardening and farming of trees with your view that also you'd like to see more set aside, because I don't think you can have it both ways. If we want more set aside, and I'm not necessarily saying I'm against that, then maybe we should be using some land more intensively.

There's a lot of land, you said, that was probably farmed and maybe farmed poorly; there's lots of land that maybe has been inappropriately cleared in Ontario that's marginal farm land. I've seen it in my area and in Timiskaming three times sort of grow back into tag alder and brush and scrub and that, and then somebody comes in and clears it again, and then the farming economy goes down the tubes and there it grows again. Maybe some of this land should be reforested. Most of this land would be near some of the big plants. Maybe, instead of tramping all through the bush and transporting logs hundreds of miles back to the plant, we should be taking an area within a 100-mile radius or something of a plant and farming some of that, especially when you're talking about poplar species, where we can clear-cut and it suckers up. So then you could have more wilderness

areas if you were more intense in other areas. But this is what we have to reconcile.

Mr Crofts: Subscribing to the classic gardening kind of analogy to what forestry should be, you could do that, but just as in your garden, if you don't put compost or if you forget about the little exchanges, the little micro-organisms that are in that garden, if you destroy the soil by too much working, your garden, even though it's close to your house or close to the mill, won't sustain you for very long. Remember, at the outset I implored you to think about not 50 years down the road but 500 years down the road. What is that land in Timiskaming going to look like? Will we have forested it so intensively that it will grow nothing but tag alder, or will we forest it ecologically, take a little bit, take a sustainable amount so that all the ecological functions will carry on as they have since the glaciers? That's the only way we're going to sustain our economy, I believe, into the future.

Mr Ramsay: If we do that, and obviously based on those principles that's not a bad idea, then it's very hard to reconcile more and more set aside. We need to then

look at all our forest as being accessible but in a very sustainable way.

Mr Crofts: We need to look at our consumption, yes. If our economy requires that we consume every possible stick of wood that we have on our land base, then we might be motivated that way. If you're talking sustainability and talking sustainable economy, we have to start talking about what our economy really needs, what is our competitive advantage. Is our competitive advantage to grow poplar for waferboard or is our competitive advantage to grow pine over 200 years or 250 years for high-quality sawlogs, or red oak veneer? My thought is that it's in the latter, not the former. Any country, including Brazil, can grow trees much faster than we can for those low-grade purposes. They can't grow red oak veneer; they don't have it down there.

The Vice-Chair: Thank you very much for coming on relatively short notice and sharing your thoughts with us. It's much appreciated. This concludes the hearings for today. The committee stands adjourned.

The committee adjourned at 1628.

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Substitutions present / Membres remplaçants présents:

 Bisson, Gilles (Cochrane South/-Sud ND) for Mr Wessenger

 Carr, Gary (Oakville South/-Sud PC) for Mr Arnott

 Fletcher, Derek (Guelph ND) for Mr White

 Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson

 Jamison, Norm (Norfolk ND) for Mr Mills

 Miclash, Frank (Kenora L) for Mr Sorbara

 Ramsay, David (Timiskaming L) for Mr Grandmaître

 Wood, Len (Cochrane North/-Nord ND) for Mr Morrow

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Luski, Lorraine, research officer, Legislative Research Service



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Third Session, 35th Parliament

**Assemblée législative
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Troisième session, 35^e législature

**Official Report
of Debates
(Hansard)**

Tuesday 16 August 1994

**Journal
des débats
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Mardi 16 août 1994

**Standing committee on
general government**

**Crown Forest
Sustainability Act, 1994**

**Comité permanent des
affaires gouvernementales**

**Loi de 1994 sur la durabilité
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Tuesday 16 August 1994

Mardi 16 août 1994

The committee met at 0930 in the Pinewood Motor Inn, Espanola.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

TOWN OF ESPANOLA

The Vice-Chair (Mr Hans Daigeler): Good morning. Welcome to the hearings on Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario. Today we are in the great city of Espanola, and it's my pleasure to welcome Mr Ken Buck, who is the finance chairman for the town of Espanola. Is the mayor here as well?

Clerk of the Committee (Mr Franco Carrozza): No, he's not here.

The Vice-Chair: Okay. I don't know whether you're familiar with the procedure. You have half an hour. You can use the time as you wish. However, we would like you to leave some time for questions and answers; it goes in rotation by caucus. If you'd like to begin, please go right ahead.

Mr Ken Buck: I would like to officially welcome everyone here this morning, especially the members of Parliament. I hope you take our remarks into consideration on this bill. It is a serious bill to northern Ontario, and I would wish you would consider it.

I'm going to ask one question right off the bat. It's always been a bone of contention with a lot of people. It's not all in the speech I handed out. I recognize a couple of MPPs over here: Mr Ramsay and Mr Brown. I would like to know where the rest of the MPPs come from, what part of the province, if that's permissible, Mr Chairman.

The Vice-Chair: Normally, the procedure is that you make your presentation and then there will be questions and answers afterwards. Just for your quick information, we do have a good cross-section from across the province. There are several who are from northern Ontario.

Mr Buck: I'll give you a little rundown on my background. I have been on council in the town of Espanola for approximately 20 years, six of those as mayor. I'm a director of FONOM and represented them at meetings or workshops of the Ministry of Natural Resources since February 1993.

AMO asked for a representative on the Bob Carman committee. This committee was a sounding-board for Mr Carman, who was dealing with the government and industry. I was appointed to that committee.

I believe MNR needed a look at some changes made in the act. All the shops and meetings were a learning experience for myself and, I believe, a lot of other people, and that was in more ways than we believed. A lot had started before I became involved, and I am just going to mention some of the reports and workshops I was involved with. There were other papers handed out to us that were previous. Some of them were dated 1992 and, as we know, the act hadn't been changed for a number of years.

The first one I attended was Planning for Ontario Natural Resources—workshop guide received on the 22nd; the meetings were the 26th and 27th. Frank Wilson was the planning review project coordinator; Forest Values, working presentations, team leader, Laurie Gravelines; Forest Values workshop in October; Forest Values; Timber Production Policy, workshop by Brian Callaghan.

Background materials and support documents that were given to us were sometimes at the meeting or like the ones we got last Tuesday, which tie into the act for today's presentation: Forest Information Manual, Forest Management Planning Manual, Forest Operations and Silviculture Manual, Scaling Manual.

There they are, gentlemen. I don't know how you expect people to read them, take out of them what is important or isn't important and digest them from last Wednesday until this morning, when I still happened to be out of town for about four days this weekend. I picked them up after work on Wednesday. I don't think that's being fair to us; I don't think it's being fair to the general public; I don't think it's fair to anybody involved that receives those and expects to be here to make a presentation and a judgement on those books.

There were other previous documents: Ontario Forest Products and Timber Resource Analysis; Resource Management: Working Together; Water Management on a Watershed Basis: Implementing an Ecosystem Approach; Subwatershed Planning; the report of the Ontario Forest Policy Panel, Diversity: Forests, People, Communities—I'm sure that you people must have gone through this one; this was put together by a group of people and is one that the government has used considerably, I'm told; it has to deal with forests, people and communities; A Report and Recommendations from Labour, Industry and Government to the Ontario Minister

of Natural Resources; Measuring Unpriced Values in Ontario's Forests: An Economic Perspective.

I could go on down the list. I believe I have 25 copies here if anybody wants to pick them up and look at them. But a lot of these were put out quite late. They go down to Developing a New Timber Production Policy; The Timber Resources of Ontario; Forest Management Accounting Framework; Ontario Stumpage: History and Procedures.

There's another page of them here too, but the most important one—I shouldn't say most important—one of the important ones in those was the one on timber management. I'll get it right here. I was asked when I came in where I came from, if I was travelling. I said no, I wasn't really travelling but I was just wondering if everybody had all the information we were given. That's a full suitcase of it in that short period of time.

The document I'm talking about is Hard Choices—Bright Prospects. That one there is one that is, I'm told, being used considerably by the ministry. I don't know whether you people have it, whether you've read it or what, but there is a lot of good information in it.

Last but not least is the document on AOX, zero discharge. There's been no scientific proof of small amounts doing harm to the ecological system, but this government has listened and still listens to a lot of minority groups that feel they know it all and do not worry about any consequences it may have on one and all.

As I mentioned in my presentation at the EA hearings, common sense, let's use it. But it seems it has gone by the wayside.

The government intends to push this bill through this fall. I have read it from front to back and have listed 25 sections that I feel should be amended, and I'm sure that other speakers are going to address many of them. They're also listed over there, 25 copies.

The bill is laying all the costs on the bush operations, large and small, and some are very unreasonable. Along with these manuals we just received, how can anyone in government ask for good, solid input with reasoning and common sense in such a short time frame? Maybe a good, qualified person full-time could, but as for myself, I still work for a living and cannot spend eight hours a day working on it and trying to decode and decipher it.

When I started back in February 1993, we had so many hectares of land to work with. Now with national issues, parks, old growth and whoever knocks on the door and says we have something to protect, it is being cut less and less every week or two. The only ones that might survive are the large companies. This bill is making it so the small operator will be a thing of the past, something like your farmers in southern Ontario.

0940

The saying, "Keep Ontario Green"—yes, we would like to see some of that. There are over 40 municipalities out there which survive alone on forestry of one type or another.

I'm just going to give a few of my 25 objections to the bill:

Sections 8 and 10, part II, page 5:

Section 8: Pretty broad statements.

Section 10: On whose recommendation?

I'm not going to read the sections out of the bill. I assume you all have the bill.

Section 12: Citizens' committees—who, what experience? That's on page 6. I was talking to one gentleman last night. He was asked to be on the committee. He said one meeting a month. He said the first month they called three meetings. He said, "I just don't have the time for that," so he resigned. That's what you're going to find with these local citizens' committee groups, if you're going to start having two, three, four meetings a month.

Sections 16 and 17, page 7: In part. Look at the costs. I don't know of any large industry—I shouldn't really word it that way. This isn't in the speech, but the government does help a lot of large industries. It looks to me like they're singling out the forest industry to be sort of an independent one and you guys all pay the shot.

Section 28: Was suggested to follow the market. That was suggestions that we made at the Bob Carman committee level. That's page 9 and 10. The way it's worded does not say that, and that is for the price of your stumpage and your trust funds and futures funds and that. I believe it was mentioned that if this is what it had to be, we follow the market trend, not look at it occasionally, as the bill mentions.

Section 45, subsection (3): Should be qualified person. I've been around the government long enough. We've been fairly fortunate—quite fortunate, I must say, in Espanola—with MNR. But with some other ministries, I don't know where they get some of these people from, but they sure don't have the background or the knowledge to be doing some of the jobs that they're trying to do. I'm not blaming them; it's the shuffle that the government is doing.

Section 45: Trust funds. We tried other methods of funding but the treasury would have nothing whatsoever to do with it.

Section 52: Broad statement. How can you harvest anything without damage? I'm not talking that nobody's trying to damage the forest, but when you take trees out you use equipment, you're going to be doing a certain amount of damage, the same as a farmer when he plows a field. Seagulls love the worms. It is just too wide open for any environmental group to stop operations. Someone would be totally out of business before the government gets around to settling it, as our present court system seems to last for ever.

Section 53: The same.

Section 55: Penalties.

Clause 61(1)(d), page 23: A \$1 million fine. What company in this province in today's economic condition could afford a \$1 million fine? I know they shouldn't get into it. Accidents happen. Things happen beyond control. We are all using new technology, where there's enough money left to put it in. God, we're not in Russia, I hope.

I see very little in here of all the workshops I attended and the recommendations to the Carman committee. I am sorry to say it, but I'm going to call a spade a spade. I feel the present government knew where it was going and

what it wanted before any of these workshops and meetings were held.

I believe it will likely leave everyone who is involved feeling the same way, other than certain interest groups, because of the broad statements made in this bill. They can jump in with both feet and have government backing for work stoppage and so on.

I implore you to either hold this bill up or sit down with the residents of northern Ontario and work up a bill which is much more in line with the times and actual facts of timber harvest and living in the north. I believe Mr Hampton is either listening to these groups or has forgotten where his roots come from. His new partner seems to have kept most of hers.

I will give you specifics for Espanola:

Total taxes, municipal and school: \$7,553,166. E.B. Eddy's portion is \$3,979,154.50, which is 52.68% of the total taxes.

We have some capital projects for 1994, which is over \$7,372,168. Some of them I'll list: the Queensway, \$327,500—these are streets—Mead Street sidewalk, \$25,000; police cells, \$40,000, so if any of you are out of line in the next day or that, you're going into the old cells. They're not just as good as what they might be when we get finished with the \$40,000 expenditure on them. We don't want to see anybody down there. Library heating; arena engineering.

Multi-year projects: water and sewer, \$15,397,000; total allocation, infrastructure, \$994,000; Highway 6 servicing, \$815,000.

This year the school board is spending \$2 million on repairs and renovations to the schools.

I don't know whether you came in that way or not, but across from the mall you'll see a steel structure going up, which is a new Canadian Tire store, which is valued at about \$2 million. Tim Horton's is going in along with it, on one side of it, up a little ways, at almost a quarter of a million. There's some talk of some other stores coming in.

These people have looked at Espanola. They've looked at E.B. Eddy. They have felt that we were a solvent town—I guess they didn't look at Bill 171—so they figured to invest their money here.

In these figures, I did not have time to break down what we thought might be the small jobbers' input, as all their operations are not located in Espanola but in an adjacent area. But I assure you that the number of people they employ and the various taxes is quite significant. If you end up shutting most of them down due to the changes in the act and the cost, between loss of taxes and loss of money flowing into the community, it will hit northern Ontario something like the cigarette tax hit you people. Neither the municipalities nor the government can afford that.

E.B. Eddy, to my knowledge, and I'm sure Mr Waddell will possibly point it out, I believe purchases about 40% to 50% of its material from jobbers. Correct me, Jim, if I'm wrong. So let's have a second look or as many looks as it takes before this bill is passed.

In closing, I will add, so you will not think that I am

all negative, most ministers of the NDP government have treated Espanola on a very good basis. With meetings, they have made themselves available, and for funding for various projects such as our sewer and water extension, and I thank them for that.

The sewer and water project is also tied in, along with the Great Lakes. These are also part of the Great Lakes cleanup of which I am a member of the RAP team on the Spanish River.

I again request you to study this bill and the manuals and come up with a much more comprehensive one that will still maintain a future for ourselves, our children, our grandchildren and into the future of this great province for hundreds of years. It can be done, so let's do it.

0950

The Vice-Chair: Thank you very much for your presentation. Following the rotation from yesterday, the government caucus will be first. We have about eight minutes altogether, so a little bit more than two minutes per caucus.

Mr Len Wood (Cochrane North): Thank you for the welcome to Espanola. It's a pleasure to be here. I live in Kapuskasing. I'm the elected member for Kapuskasing.

You've covered a lot of area in your presentation. Some doesn't necessarily refer to Bill 171, but I want to concentrate on one question which involves the involvement of local citizens' committees. The environmental assessment recommendations are binding the government, and we have agreed that local citizens' committees should be involved in how the forests are managed.

I just want to get a view from you as to how you think the structure should be. You made some comments that one person had to resign from the committee because there were too many meetings, I believe, during a month. I want to get feedback from you as to how you think the committee should be structured, because from what I understand, we're bound by the environmental assessment recommendations that have said that the local communities have to have citizens' committees that make recommendations on how the forests should be used. I just want to get feedback from you on that.

Mr Buck: I think all these people asked to serve on these committees were asked to serve on their own strictly voluntary time. Is this not so?

Mr Wood: Yes.

Mr Buck: There is no remuneration or anything for them to be there, and I'm not saying that remuneration is the fact that somebody will serve on a committee. I'm sorry to say that a lot of these other groups out there, environmentalists' groups and all of those groups, are funded; all the shops I was at in Toronto, between the ministry and a lot of those people who were there, were 50-50 or thereabouts in some of our shops. I believe a lot of them were on the payroll to be there. I was not. I was there.

If it happened to be on my day off, one of the organizations covered my expenses for going, but you can only take so many hours out of a week when you are an active person in the community, and I think everybody around this table knows that there are so many active people out

there. The rest of the people just sort of sit back and say: "Okay, well, let Joe do it. Let somebody else do it." You can only load the active people up with so much work.

Just who should be on there? It should be some of the people who have a bit of an idea, who know what is going on in the forest, not just all the objectors of everything and anything. We had one person at one of our committees who wanted to stop all cutting of black spruce in northern Ontario. Does that make sense to anyone sitting around this table? That would shut everything down across Highway 11, across the north of the province, because that is their main wood supply that serves a lot of the mills up there. These are the kinds of people we don't need on these committees, I'm sorry to say, but these are the kinds of people who are there all the time.

The Vice-Chair: Now the local member, and also the critic for the Ministry of Natural Resources for the official opposition, Mike Brown.

Mr Michael A. Brown (Algoma-Manitoulin): Perhaps I could just take a moment to welcome my fellow colleagues to Espanola and the fine riding of Algoma-Manitoulin, and thanks, Ken, for coming out today. I think we particularly appreciate, as members of the committee, the listing of the sections that give you particular concern. I and others on this committee have strongly put forward your point about all these manuals and regulations that were provided to many people just some time last week. I realize that it's almost an impossible task for people to go through those and make informed comments about all the sections at this very early date.

I'm interested a little bit in the residual value that, I think you know, is part of this new stumpage regime, and the residual value part of, I guess, this tax—there's no other way to call this but a tax on trees—which does not flow back to the forests of Ontario at all, but flows to the consolidated revenue fund at Queen's Park for disbursement as the Finance minister might please.

Knowing what is needed in the forests, as a northerner and someone who obviously knows a lot about forests you would recognize there's a lot of work to be done in the forests also. Would you believe this money should flow back into the forests of Ontario or to the Finance minister?

Mr Buck: I believe this money should flow back into the forests. They have taken, to me, industry and they say, "Industry is going to support the forests." This is what I read out of this bill; this is what I've taken from some of our meetings.

They are not taking into consideration everything from the forest, the forest users. You have your hunters, you have your fishermen, you have your tourist lodges, you have your hikers, you have everything that is being used. A lot of these people are the objectors to taking the resources out, and yet I paid, I don't know, \$70, \$80 or \$90, whatever it was, for a little plastic card so I could go fishing and hunting. I still have to buy my licence, of course, all on top of that. But I have not seen a financial statement that says where any of this money here is going back into the forest to help sustain the forest, and there

are no charges for anybody else, other than the fishermen and the hunters, to buy licences to use the forest.

Let's be fair. If everybody's going to use it, then let everybody pay, either that or put a percentage of it on the general tax bill that everybody is going to pay into and let some of them pay it that way, because they are using it. How do you charge a fellow who wants to go for a walk in the bush? That's pretty hard to do. But if he is going to protect that section of the bush so that he can look at a tall red pine or a tall spruce or balsam or poplar or birch, then he should be paying something for it as well. It is our livelihood here in the north, and I'm going to get off the subject for one second.

The Vice-Chair: We'll have to give Mr Hodgson time to ask a question as well.

Mr Buck: Okay, fine.

1000

Mr Chris Hodgson (Victoria-Haliburton): Mr Buck, if you want to get off the topic, that's fine with me. I'm glad to be in Espanola this morning. I come from a rural part of Ontario called Haliburton.

Mr Buck: Know it very well.

Mr Hodgson: It's a similar economy to this. We have logging and tourism and a lot of hunters and things like that.

I'm part of the PC caucus and we've been looking at ways to make industry right across Ontario, especially in rural areas, more competitive. That's the bottom line here: We've got to be competitive with the northeastern United States and other areas of the world to sell our product.

I'm also concerned about a large part of our sustainability, if this is what this is called, local jobs and jobbers and independents. I was glad to see that you mentioned this in your report, that you're concerned that this bill will somehow eliminate the small person and therefore some of the competition that drives our economies.

What specifically do you see in this act that does that? I mentioned it yesterday and was referred to section 35 that gives independents a right to have arbitration when they enter into a third-party agreement. You've got a number of amendments here, and I just wonder if you could draw my attention to a couple of specific ones that you'd like to see amended, or is it just the general content of the bill, that only the large ones will be able to define what they can do with their land?

Mr Buck: I will just generalize. The general content of the bill is that it—I'm talking with some of them who say the way it's drafted, the costs involved are just going to be astronomical. They're not going to be able to survive as a father-son operation or a two- or three-man operation.

Mr Hodgson: Because they are not going to have the resources—the manuals?

Mr Buck: Not going to have the resources to do all the paperwork, all the legwork, everything they've got with it and all the costs that go along with it. It's going to drive their prices up so they're not going to be able to compete with the large companies to sell them the pulp.

I'll give you one example. One fellow told me that he had a little four- or five-foot stream to cross. He was going to drop a culvert in it. Somebody from MNR came and said, "Oh, no, that's a trout stream." He said, "Hell, there's never been a trout in there for years because it dries up in dry summers." He's got to put a dry bridge across it now if he wants to get the pulp out. That's going to run him, he felt, in the neighbourhood of \$40,000 or \$50,000 instead of 3,000 bucks for a culvert. I don't know whether everybody knows what a dry bridge is or not, but to my knowledge, it's one that stays away from the water source, so far back from the creek. It's got to be big enough and heavy enough to handle tandem truckloads of pulp. It's not just built out of two-by-fours and a handful of nails.

Mr Hodgson: There would have to be a watershed study as well.

Mr Buck: That's right. Where do these small operators get the resources to do all this? The other act spells it out for them pretty well too. I don't know whether that answered your question or not.

Just for you gentlemen, I don't know how many have got it or how many have it. I was asked where it came from when I came in. That's the stuff I've received in a year.

The Vice-Chair: Have you completed your presentation then?

Mr Buck: Have I used up my half-hour?

The Vice-Chair: Yes. Thank you very much. We do appreciate you appearing before the committee. I understand the frustrations that you experience. I should share with you that we get a fair number of these documents on quite short notice as well, but I do appreciate that it is very difficult to look through these. Nevertheless, we do appreciate your effort to at least give us your initial impressions and if you have further comments to make later on, the committee is always pleased to receive them. So thank you very much again for your presentation.

Mr Buck: I don't mind short notifications, but I do mind them when it comes to and involves thousands of people in our province. This is what ticked me off on this, and I'd rather be at work this morning than be here because I am totally—

ESPANOLA AND DISTRICT CHAMBER OF COMMERCE

The Vice-Chair: The next presenter now is the chamber of commerce from Espanola. My list here says Judy Skidmore and Randy McCulloch. You know what the process is. You have half an hour and if you'd leave some time, usually about 10 minutes or so, at the end for questions and answers, it would be appreciated.

Mr Randy McCulloch: I'd like to thank you for inviting us and having us out this morning. I'd like to welcome you to Espanola and hope you enjoyed your stay and will come back and enjoy our great forests.

I'd like to introduce Judy Skidmore who, on behalf of the chamber, is our expert when it comes to the forestry industry and has done a lot of work in it. She will go through our presentation. Afterwards we'd be happy to answer any questions you have.

Ms Judy Skidmore: The Espanola and District Chamber of Commerce has been active for nearly three years, after a lengthy respite.

I must apologize, first off, not having 25 copies available for you. We just finished this presentation at a quarter to 8 this morning.

The Vice-Chair: You can leave one copy with the clerk to copy and distribute to members.

Ms Skidmore: We have a few that we can leave.

Our membership has grown quickly to over 80 members and businesses are joining at a regular pace. Meetings are held the first Wednesday lunchtime of every month with an average attendance of 25 to 30 members. There are 12 directors. The active leader and president of the chamber of commerce is Randy McCulloch of Frank McCulloch Insurance, a long-standing Espanola company with insurance and real estate interests.

Projects of the chamber of commerce within the past couple of years include a biannual info fair, which are government programs and services; mediating local issues such as business licensing and garbage collection; reviewing business community initiatives such as the economic development officer, which we hope to have in place soon; telephone service, because Espanola now has only analog switch service, no cellular and no community 911 service. We also bring international business motivational speakers to the membership and 200 attended the last session.

There are business events and lunches; organizing and printing a community and business brochure, for which I'm a bit overwhelmed as well by the numbers who are here this morning. I just have three copies that I can provide to you; this is our volunteer effort. Organizing forest industry investment information for members on a local, national and international outlook; and as well the Welcome to Espanola sign, which I hope you saw coming in, which we've just managed to put up. And of course, election debates at federal, provincial and municipal elections.

The Espanola and District Chamber of Commerce is a member of the Ontario Chamber of Commerce.

Our motivation for these activities is the sharing of a common concern for the district's major employer: E.B. Eddy Forest Products. Not only in Espanola, but along the North Shore, Elliot Lake, Manitoulin, east and north of Sudbury, our businesses share concern for the health of the forest industry.

Chamber members share security in the good management of E.B. Eddy Forest Products and the value of its wood reserve as the basis of the main economy in the district. Even if the present owner should change his investment strategy, that is, the owner of E.B. Eddy, we hope that this forest products operation remains attractive enough on a global scale to attract new investment and continue to sustain the community where the Espanola and District Chamber of Commerce and fellow businesses work towards maintaining a good level of employment.

The business community recognizes that we have to do more with less. Successes of the 1980s must be carefully managed to survive the 1990s. Espanola is subject to

many forces and the main employer is competing in a global field that affects all of us who serve the mill and its workers.

Our objectives include: In the growing ranks of the Espanola and District Chamber of Commerce, our objectives are to strengthen the business community in the district.

First of all, we need more information. Every policy and direction at the mill has an effect on our business community. We need to know what is happening locally and on a larger scale. Sharing information and networking is a major need. The Canadian and the Ontario media seldom provide information directly to resource-based businesses such as ours. The majority of our media is southern and urban based.

One of our objectives is providing new employment. It is apparent that the resource community in Canada is becoming much more mechanized. The result of changes in the forest industry is an employment levelling. Even if production is increased, it is not likely that communities such as ours will see the kinds of hiring of the past.

The companies and the economy overall still benefit from the products that we make and the commitment to better business practices, but the opportunity for our young people and the many more women who are entering the workforce are not seeing the corresponding work and wages that we expected in the past.

Even with significantly higher education levels, which people in our district are attaining, we will not see the many opportunities in this mill or in other mills across the north. It is up to us, as the business community, the small business, to ensure and to provide those business opportunities, to take up the slack, more or less, of the change in the forest industries. We have to be strong, as small businesses, in the district.

We have to maintain opportunities for families to stay settled in northern Ontario. While we in the business community continue to provide products and services, we have a common concern for the future of our families. Comments are regularly made that our children should have the opportunity to continue to live in this area and it looks like small business and family businesses are going to be our children's best chance. It's the responsibility of our business, the members of the chamber of commerce.

1010

The Espanola business profile: The region depends more than ever on the forest industry, with the decline in the region's mining industry. Of course, I think most are aware of the Elliot Lake situation and other mining decline in the region. The forest industry, farming and tourism and some mining continue to sustain a diversified economy in the region that is comparable to any other in the province. According to the Canadian economic diversity index, the region has about one business for every seven households, which is particularly good for major industry regions. The possibilities for our chamber of commerce to sustain a good employment level is realistic.

The forest industry is our preferred economic base. The

forest industry is the traditional industry in this region. The Espanola district communities have been sustained by a huge wood basket that extends across Manitoulin Island, the North Shore and northwards almost to Timmins. The wood basket has been the lifeline for our families for nearly a century, the first central settlement and surely for aboriginal families for centuries before that.

The forest industry pays well, 40% above the national average of \$29,000, and has sustained Canada as the major industry to the most attractive economy in the world. There is every indication that we should be able to continue to provide well for our communities, our nation and provide economic forest products of paper and lumber to other building nations around the world.

Our wood crop: The value of a jack pine tree, which is about 70% of the species used at the local mill, averages about \$35 to \$40, up to \$80 for the largest jack pine tree. So at the mill, that's the value of a jack pine tree, about \$35 to \$40—that's what it's worth—up to \$80. That breaks down to \$28 for lumber, \$8 for chips, \$1 for sawdust and shavings, for the average tree value of \$37. It's not perhaps as valuable as a BC red cedar, at closer to \$20,000 for the best and oldest trees, but still a valuable crop. With a rotation age of 70 years, a jack pine crop is worth about 50 cents to \$1 a stem on an annual basis at today's prices. So that crop will compare favourably to most agricultural crops in Ontario.

A group of farmers who recently toured a reforestation site were amazed at the optimism of Ontario's foresters. "Imagine," the farmers said, "sowing a crop to harvest in 70 to 100 years. We agonize every year at the financial possibilities of harvest only a few months away." Yet even with this valuable crop, Ontario annually clear-cuts its forest acreage at a lower rate than the corn production acreage in Ontario's fields.

Our need for investment security: It is on the value of the tree and the security of investment in the future of access to that jack pine that all of us in Espanola are basing our businesses and our future. Our mortgages are amortized over 25 years, and that would seem to be the minimum amount of time to be able to count on business and at least as much as the jack pine's life of 70 to 80 years. Yet in the new Bill 171, tenure is actually and unbelievably being reduced from the 20 years that existed in previous legislation. Counting on five years of the future is not good for our business, our mortgages and our communities. It would seem more reasonable to extend a 20-year tenure, closer to the 70 or 80 years of a jack pine.

I use the security to access in a very general sense because loggers, tourist operators, trappers and prospectors across Ontario have many examples of failed agreements already, where they have depended on certain access and had it denied. The most sceptical of all is surely the bank manager, who is seeing less and less of government's commitments to our communities and now to the forest industry and our business community through Bill 171. Last year, loans extended to forestry across our area were down more than 30%.

This is not a sustainable forest act for our commun-

ities. Bill 171 is not sustainable for northern Ontario.

Where is the designation in Bill 171 of our security as a community and as the taxpayers of the province?

If the major forest industry investors have only five years to be assured a return on investment, then each of us who will service that investor will have only three or so years to ensure return on our investment. That will destroy our business. The banks will need more security than this bill gives us for the level of investment needed in northern Ontario.

Jobs priority: Where in Bill 171 is the designation of the traditional community wood baskets?

Where is the priority given to forestry jobs in Bill 171? Surely somewhere in this part of the province that is larger than western Europe there is somewhere that can be provided with job security enough in Bill 171. That is, somewhere within this whole province, in northern Ontario, there must be some areas of wood that can be actually designated for forestry as a priority as opposed to other priorities.

There is agricultural zoning yet no forestry zoning, no working forest for Ontario.

Bill 171 fails at sustaining jobs in communities, yet there is no threat throughout northern Ontario to sustainable forests.

The Ministry of Natural Resources report, the FIAG report, last year indicated that an additional 50% of our forest could be cut and still be sustainable.

In addition to high salaries and wages, wealth creation in the forest industry provides one of the highest economic multipliers in Canada.

The Dobey multiplier, used by Statistics Canada and forestry accounting firms, indicates that the multiplier in the forest industry is between four and five. The 1,000-plus forestry jobs in Espanola and district in the forest industry translate to about 5,000 jobs by the time the full value of the tree is tallied in the Canadian economy.

In a recent study that I had the opportunity to chair for Mattawa, the loss of forest access resulted in \$4,000 per cubic metre of wood in taxes and services, and I believe tomorrow in North Bay you'll hear more about that particular study.

Value-added products in the forest industry is an attractive prospect for communities and businesses, such as ours in Espanola.

In order to commit to investment by existing small businesses, we need security in the future of the industry. Many people invested in northern Ontario in the front-end value added; that is, the seedling and reforestation industries. Within a decade the government has built confidence in a new industry and the future, in new learning and technology, and then destroyed that investment and destroyed that hope.

Instead of new programs for learning in forestry, Bill 171 initiates punitive measures and new doubt, and in an industry that is completely subjective in its guidelines and regulations, unlike other industries where government and private industry have cooperated on standards such as the OPS, the Ontario provincial standards.

The bill has really presented a punitive nature. It has not given us the kinds of learning opportunities and cooperative methods that we need for that security for the future. It is taking our confidence backwards instead of forwards.

In summary, Bill 171 has provided the opportunity to integrate several years of hearings across the province into new legislation, yet Bill 171 fails to provide any sustainability for our communities and jobs. That is the real challenge in Ontario.

While portraying the bill as covering social trends and fads that have no real basis in Ontario's ecology and environment, we are running the risk of destroying our chances to build real sustainability.

Does this bill give Ontario and Ontarians what they need?

Bill 171 fails to meet the needs of our business community in the ways that it needs to ensure we can build a future here.

Our recommendations for Bill 171 include that: In Bill 171 there should be community woodland designations to sustain traditional forest communities; secondly, we need in Bill 171 a level of job security; and thirdly, in Bill 171 we need to provide for leadership and a positive outlook with commitment to learning and cooperation in the forest industry.

1020

The Vice-Chair: Thank you, Mr. Brown.

Mr. Brown: How much time do I have, Mr. Chair?

The Vice-Chair: Two and a half minutes.

Mr. Brown: Okay. Randy and Judy, good presentation. You raised some issues that actually were raised yesterday. I raised some in regard to the tenure and additional wood allocations. In tenure, when we're exploring that issue, the evergreen system that is now in existence seems to me to be the one that would give us the most assurance of continuation in the Espanola area. Am I hearing you correctly? Is that what you're hoping to see in this bill?

Ms. Skidmore: The tenure issue has been somewhat confused. I've consulted a number of people about what the bill actually means in terms of tenure and I've received different answers. And not being a legal expert or a constitutional expert, I guess the impression that we were left with was that within the bill itself the actual security has been reduced. Now, the opportunities exist for that security to be increased within the regulations, but the main focus, of course, will be the legislation, and that is where tenure/security for the future/access to the wood supply must be very clearly defined and clearly outlined. Without that, we're facing a lot of potential problems.

Mr. Brown: Yesterday, just to be helpful, we were told by ministry officials that they thought—well, they more than thought. They said that this could be done through the agreements with the individual FMA holders. I'm uncomfortable with that notion because it's something that can be negotiated on and on, whereas if it was legislated there is far more certainty to the companies that are involved.

Ms Skidmore: Absolutely. The legislation has to be very clear and it has to be even further. In the past that was always a problem. People are allocated wood supplies. I'm not talking about major companies; I'm talking more along the lines of independents. But of course acreage is allocated. Actual cubic metres of wood is something that they are left with and that's always been a guess as well. When they find out partway through their operation that they actually have up to 20%, 30% less wood value, because our inventory is so poor anyway in Ontario, every which way you look at it there is no security for the contractor and to get that return on investment. It's simply eroding investment. It erodes the communities. It erodes the service industries, such as our own. It's just not good enough. We have to increase our security. We can't go backwards, and that's what this bill seems to be doing.

Mr Gary Carr (Oakville South): Thank you very much for your presentation. I enjoyed it very much. We had a good opportunity to see your community. Last night we went out and had a good opportunity to sit together and chat about some of the concerns.

If there are no changes to this bill and Bill 171 passes as is, what do you see happening to your community over the next few years?

Ms Skidmore: If I might refer again to the study that I just completed in Mattawa, which I believe is one of the first ones which actually assessed the amount of financial contribution locally by the independents, in that particular community the financial contribution of the independents was almost equal to that locally of the major mills cumulatively together. And that's the first area that gets hit: the independents. They're the ones who can't pay their mortgages for these huge machines, and that, again, hits the gas stations, the mechanics, the fuel suppliers, right down to the grocery bills. So immediately you get a general eroding of the health of that business sector.

Now, the mill itself may be able to sustain itself by its other affiliated investments, through a major corporation or through another investment network, but locally you would get layoffs and a decrease in the tax base, and you're seeing a lot of that happening now. So we can't have a bill that increases that. We've got to have something that—and I'm sure it's there. People are saying all across the north what needs to be in it; we just really can't understand why it's not there.

Mr Carr: What was your input to the bill up to this point? Have you been involved at all in dealing with the ministry and giving your input up to this point?

Ms Skidmore: Input I guess has been fairly limited. I think that there is a real lack of organization in northern Ontario by the people who should get the input first. The independent foresters: There is no organization in northern Ontario which overall brings in the input of the independent foresters; the silviculturalists, those kinds of groups have never been assisted by government in organizing and bringing forth their voice. If you look at the input that government takes, you'll almost never see an independent forester on the list. Never.

Mr Gilles Bisson (Cochrane South): Judy, thank you very much for, first of all, presenting. Always a pleasure

to do business with you. Actually, it's been a while since we've had an opportunity to deal on things, so I wish you the best in the future.

I just want to clear a point that was raised in your presentation, and I imagine it's going to be a point that will be raised by others, and that speaks specifically to section 23 and 24 of the act, what you call the evergreen clause.

Under the present Crown Timber Act, the 20-year provision that you talk about was never in the act. It was in the actual signed FMA that the forest company got into an agreement with the government. So if I'm E.B. Eddy or Malette timber or whoever, I sign an agreement with the government through the FMA. In the FMA that's where you get your tenure to the land. So it was never in the timber act and it's not in this act either.

The other thing is that there are two kinds of licences in the act. The first one, under section 23, is what used to be the FMA. And the terms and conditions under section 23 that E.B. Eddy and other people will sign into, it'll be basically the same kind of provisions that we have now so they keep the tenure that you talk about.

The five-year provision that you're worried about, and I heard you in your presentation presenting on that. You talked about you're worried that people would only be given five years to get tenure over the land. We're talking there about people who used to hold what are now called district cutting licences orders in council, which is a totally different thing.

You would know, being from the north like myself, that one of the problems that we have in forestry is the allocation of wood on crown units and also the allocation of wood sometimes within some of the FMA units; that those units are not used to what the amount of forest is available.

The idea under section 24 of the act is to give the ministry the ability to be able to get access to some of that wood that maybe we couldn't get now because of the way that the system is set up. Because there are some operators, for an example, that got order in council some years ago and they've become sort of barons of particular tracts of land that local mills cannot get access to.

Ms Skidmore: I'd like to meet them, Gilles.

Mr Bisson: Eh?

Ms Skidmore: I've never met them, these barons.

Mr Bisson: Well, no—the time is a little—

The Vice-Chair: Do you want to leave some time for an answer, Mr Bisson?

Mr Bisson: Yeah. I just want to clarify—the point that I want to make is strictly this: The evergreen clause that you talk about was never in the existing act; it was in the FMA agreement that they signed with the ministry, and that will remain under the new contract that they'll sign with the government. They'll get into the same type of agreement; they'll still have tenure.

And forest companies, as you well know, E.B. Eddy and Grant and the rest of them, do a good job of forestry, take their responsibilities quite seriously and will continue to do so under this act. The five years, like I say—and

I'd ask you to go back and take a look at it—is in reference to district cutting licences and orders in council. That's what the five years is about, and doesn't refer to the agreements and FMAs.

Ms Skidmore: I quite agree that the issue is very unclear in actually how this act doles out tenure.

Mr Bisson: It's very clear.

The Vice-Chair: Ms Skidmore, you have the floor.

1030

Ms Skidmore: In the past that has been a problem. I know and you know the area where both of us have our backgrounds. There are one tenth of the OIC people now as what there used to be. They are being destroyed. They are losing all of their confidence in the future. They're losing everything.

Now, what we have to do, because we had an act which was not good, not clear and did not provide for security, we can't go backwards. We can't say, "Just because the last act was no good, we're going to reproduce it in this act, so don't worry about it, we're not getting any worse." We've got to have an act that is better.

Northern Ontario is being undermined. We are losing our population, we are losing our young people, we are losing the expertise in forestry. Gilles, that's what we've got to turn around. We've got the opportunity, a wonderful opportunity, to do it in this act. Let's do it.

The Vice-Chair: Thank you very much. Unfortunately, the time has run out. We certainly appreciated your presentation, and we encourage you to continue to be involved in this. Good luck with your chamber of commerce in this area. It's always good to see the business people get organized.

E.B. EDDY FOREST PRODUCTS LTD.
ESPANOLA BRANCH

The Vice-Chair: Our next presenter is E.B. Eddy Forest Products Ltd, Espanola branch. The presenter is Jim Waddell, if I'm not mistaken, manager of forest renewal. We received a copy of your presentation, and it has been distributed.

Mr Jim Waddell: Good morning. I'm making this presentation on behalf of E.B. Eddy Forest Products. Our company, as you probably know, is owned by George Weston Ltd. In Ontario we have the following facilities: a pulp and paper mill here in Espanola; a paper mill in Ottawa; sawmills in Timmins and Nairn Centre, which is just east of here. We also have paper mills in Hull, Port Huron, Michigan, and British Columbia.

In northern Ontario we have about 1,600 full-time employees; we provide indirect employment to hundreds more, who derive their livelihood from operations associated with the harvesting and transporting of wood purchased by our company from other companies and small contractors. We buy wood from as far west as Thessalon, north to Timmins and east to Mattawa and Pembroke.

While I'm making this presentation on behalf of our company, we are also extremely concerned about the impact that this bill will have on the small, independent contractors in this area, who supply us with up to 50% of

our fibre. I believe that many of our concerns are shared equally by the small contractors.

In northern Ontario we have three forest management agreements, totalling 1.3 million hectares of forested land, or an area roughly the equivalent of Prince Edward Island. I want to assure you that we take the responsibility of managing these lands very seriously. Therefore, Bill 171 is of the utmost interest and importance to our company, and we appreciate the opportunity of giving our input today.

I'd like to speak first to the public input process. Our company strongly supports the process of public consultation and local citizens' committees as proposed in the bill. Two and a half years ago our company was the first company in Ontario to establish its own local citizens' committee; we call it our forest advisory committee. In fact five or six of our members are here today on their own time and their day off. We have 23 members on this committee, and they represent the general public and other interest groups who use the forest in this area.

Since Bill 171 is the most important forest legislation in Ontario for the past few decades, it must be given ample scrutiny by all interested parties. While we certainly support public hearings before your committee, the time frames we have been given are totally inadequate.

This draft bill cannot be properly evaluated without reading and understanding the draft regulations and the draft manuals that are an integral component of this bill. Mr Buck has stolen my act by lifting up his draft manuals. I have the four manuals here, which I have not had the opportunity to read, as we only got them last week as well. Some of the other presenters here may not even have seen them. It's a tall task to ask us to comment intelligently when we have not had the opportunity to read them. So we must express our concern about the haste in which these drafts have been produced. Portions of the Forest Management Planning Manual, for example, are not finished.

We believe this public review process has several major flaws. The time period available for reviews is inadequate, the draft manuals, which are key elements of the bill, are going to have major rewrites done to them over the next several months, and no opportunity was provided by the MNR for any interested parties to provide input to the draft regulations.

A public review process that is based, as is this one, on the public having access to only a small portion of the material, in our view, is inappropriate.

I'd like to speak now to the draft legislation. E.B. Eddy is fully supportive of the purpose of this act: "to provide for the sustainability of crown forests and, in accordance with that objective, to manage crown forests to meet social, economic, and environmental needs of present and future generations."

However, we do have some very serious concerns about this draft and where it may take us. As drafted, we believe this legislation will have a negative impact on the forest industry of this province because of the high degree of uncertainty and insecurity it creates in several key areas.

The first of these is tenure. The previous two speakers have already mentioned tenure, but it is one of the most important requirements to the futurity of Ontario's forest industries.

We must have assurance of long-term wood supply. Without appropriate tenure, capital investment simply will not occur. Who is going to invest multimillions of dollars in sawmill or pulpmill or boardmill, either to improve the existing facilities or to create new ones? Who would wish to invest money in forest renewal if you have no assurance that you will retain management rights to these forests?

Security of tenure is absolutely essential to industry, and yet this bill appears to dramatically reduce tenure in a number of ways, first of all, in the length of time. Now, as we've previously said, current FMA holders have a 20-year evergreen licence which, subject to a five-year review by an independent team, may be renewed each five years. This system of tenure is quite acceptable to the industry. It creates the necessary security of tenure for the company and helps to create a positive investment climate.

Under this bill forest management agreements become sustainable forest licences and the minister is free to set the term of the licence as he sees fit. This makes industry very nervous, as we could receive a licence with less years of tenure than we currently have. We have voiced this concern to the ministry people involved in preparing this bill and we were assured, as Mr Bisson has mentioned here a few minutes ago, that they anticipate that the existing 20-year evergreen licence concept would continue in the new scheme of things but that the Carman exercise would deal with the tenure question.

We have raised the tenure question with the provincial facilitator, Mr Carman, in our negotiations. We have written to Bob and we have spoken to Bob. We have raised this as our number one concern. As recently as last week, we called again and Mr Carman indicated to me that he is not in any position to assure us of the tenure matter; he cannot make any commitment on tenure. We find that most disturbing. On the one hand, the minister can set any term of tenure he wishes on the licence; on the other hand, the provincial facilitator is telling us that he is not authorized to deal with tenure at the current time. This uncertainty of tenure is totally unacceptable to industry and it must be corrected.

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The second issue of tenure that very much concerns us is the powers of the minister to suspend or cancel the licence. Subsection 56(1) allows the minister to suspend or cancel a forest resource licence in whole or in part for a variety of reasons. Some of these reasons we can certainly support, but others are most troublesome.

For example, the licence can be suspended or cancelled if the licensee fails to comply with the Forest Management Planning Manual, the Forest Information Manual or the Forest Operations and Silviculture Manual. As we've said, these manuals were written in haste, they're in preliminary form only, and we have not had time to review them, so we really don't know how difficult it's going to be to comply with these manuals. There's no

indication provided as to what degree of latitude would be permitted for non-adherence to the manuals.

Another section allows the minister to cancel if the licensee fails to provide information to the minister as required under the act or regulations. What information is required? We don't know. Section 16 requires a licensee to keep such records as prescribed in the regulations. Our review of the draft regulations does not show any reference whatsoever to such records, so we're totally in the dark.

A section of the draft regulations permits the minister to suspend operations if he considers such operations to be detrimental to the future production of forest resource. No explanation of what this means. "Forest resource" is defined in the act as "trees in a forest ecosystem and any other type of plant life prescribed by the regulations." This could be blueberries, it could be raspberries, any other type of plant life. This section appears to leave the door open for suspension of operations for any number of reasons.

The third issue on tenure is that a section of the new act allows the minister to sell, lease, grant or otherwise dispose of land under licence. There is no apparent limit or cap and there's no apparent compensation to the licensee. Again, we're at the minister's whim.

The fourth section of tenure that concerns us is that when a licence is transferred, assigned or charged, the minister can reduce by 5% the amount of forest resource entitled to be harvested. We fail to understand the rationale for this reduction at all.

The fifth area of tenure that concerns us is the minister's right to amend a licence. Subsection 31(1) allows the minister to amend a licence in accordance with the regulations. The draft regulations allow the minister to amend the licence in a number of ways that could seriously impact the viability of the licensee.

These regulations allow the minister to change silvicultural and other standards previously agreed to. They allow him to dispose of forest resource, including timber, that the minister feels is surplus to the needs of the licensee. They allow the minister to grant a licence to a third party for this so-called surplus and then require the original licensee to enter into an agreement with the new third party to resolve any issues that may arise. They also allow the minister to amend the area of the licence. These are tremendous powers given to the minister.

The sixth issue on tenure that really disturbs us is the statement in the regulations that "Any licence shall contain the following terms and conditions," and I've picked out four or five here that are particularly onerous.

They allow the minister to state the requirements for the sale of any species of the forest resource harvested to any mill, conditions that limit the harvesting of the forest resource, conditions with respect to harvesting and utilization practices, the requirement of the licensee to pay for the cost of wood measurement, the forest renewal and other silvicultural work which the licensee is required to carry out in accordance with approved prescriptions. Finally, and the one that really frightens us, the minister can designate any part of a licensed area as an area of

concern or special area in which either no forest resource or limited forest resource harvesting may occur and in which no road or other means of access for the purpose of harvesting may occur.

In theory, this allows the minister to take five or 10 or any number of townships in your licence and set them aside as a roadless area, as a wildlife preserve or whatever. There is no cap on this. Any or all of these requirements could potentially seriously impact the licensee's tenure and his ability to remain competitive. In summary, it appears that tenure under this act will be most uncertain, it'll be quite insecure and very unattractive to industry. Under this act industry is taking on many additional responsibilities and obligations but it appears that our tenure is seriously weakened.

The second major area of concern we have is definitions. There are many key concepts and words throughout the act and regulations that either lack definition entirely or are so vague and fuzzy that their interpretation and application will be difficult if not impossible.

For example, subsection 8(2), "The minister shall not approve a forest management plan unless...satisfied that the plan provides for the sustainability of the...forest," but nowhere in the act is there any definition of "sustainability". This apparently is going to be written and defined some time in the future.

Other examples of key words that are not defined or are defined in such a vague way that they're next to useless are "forest ecosystem," "loss" and "damage," and there are many other examples.

The third major area of concern we have is the uncertainty that is created by the punitive nature of this act. In the last four years the forest industry has undergone many in-depth reviews by independent groups: the environmental assessment hearing, the five-year review and so forth. These reviews have all shown that Ontario's forest practices are appropriate for our forests, they are being successfully applied by competent professionals and that industry is doing a successful job of forest renewal. With this track record, why is this bill so punitive in nature?

On June 20, 1994, the minister is quoted in Hansard as saying: "I don't want to leave the impression...that I think we need to take a hard line with the forest industry in this province. On the contrary, I think that too often the forest industry is unfairly criticized."

This act does not appear to mirror Mr Hampton's words. There are administrative penalties proposed ranging from \$2,000 to \$15,000 and what we feel is unfair about these is that the application of these penalties will be based on procedures outlined in the draft Forest Operations and Silviculture Manual. Preliminary examination of this manual indicates that the penalties will be applied in a manner that is a heavy-handed one and revenue directed.

Also, under this bill the courts can impose fines of up to \$1 million. The punitive nature and the potential size of these penalties and the lack of definition all add to the atmosphere of uncertainty this bill will create.

The fourth area of major concern to us is the uncertainty that there will be increased industry costs. We

aren't able to determine what these are because the act and regulations are very vague in many key areas, the manuals are still an unknown quantity and it is quite unclear what new roles and responsibilities the industry is expected to assume.

It appears in some cases that the ministry is simply trying to offload some of its current responsibilities to us, along with the inherent cost. What is clear is that this draft bill provides the minister with enormous powers and that can translate into additional responsibilities and costs to industry. In today's highly competitive international marketplace, Ontario's forest industry cannot be further disadvantaged by the imposition of more government costs.

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In summary, the public input process is badly flawed due to the inadequate time available for review of the documents and because of the preliminary nature of the manuals.

Bill 171, in its present form, is bad legislation for forestry in this province. It requires major revisions. The bill lacks clarity, it is process-oriented, it gives the minister sweeping powers and is unnecessarily heavy-handed towards the forest industry. The legislation has the potential to create a climate of uncertainty and pessimism that will negatively impact investment and development on the industry in this province.

Our company has two requests to make to this committee: First, please set aside this legislation until all parties have had appropriate time for adequate review and the manuals can be finished; and secondly, please listen carefully to the thoughtful concerns you will receive from the forest industry over the next few weeks and try to incorporate them into a revised act.

I thank you for this opportunity of presenting the concerns of E.B. Eddy to your committee.

The Vice-Chair: Thank you very much for your thoughtful presentation. Before I give the floor to the different caucuses, we might have a little bit of extra time available. Has Antoine Fabris or Huguette Fabris or Stéphane Fabris arrived at all, anybody in the audience, the next two presenters? We can take a little bit of extra time then in terms of questioning, since the next presenter is not here. We'll start with the Conservative caucus and Mr Hodgson, about five minutes each.

Mr Hodgson: Five minutes? Good. Thank you very much, Mr Waddell, for coming before us this morning. As I mentioned before, a lot of the presentations we see are from different groups, and I would just like to thank you for this proposal. The summary is very powerful, and I can assure you that we will listen carefully and thoughtfully to all the concerns from the lumbering industry.

We've been told by the ministry staff that this is results-oriented, and as you've clearly pointed out, it's process-oriented and gives the minister sweeping powers. But you also talk about how it adds to our lack of ability to compete in the international market. You have mills and do business in the United States and in Ontario. I won't go into some of the other factors that make it so it's hard to do business in Ontario.

We've mentioned the tenure before, and this is an excellent review of the tenure and the problems with it and how it threatens tenure and how that's linked to investment and security and the jobs and sustainability in our communities in northern Ontario.

The one area I'd like to have you explain further that hasn't been explained in detail in your report, you just mentioned that you have a citizens' committee, and as you're aware, this act, although manuals aren't made up on it, calls for citizens' committees to develop multi-use strategies for the crown forests.

Can you give me your opinions on that and tell me about your community committee, how it works, what the criteria are for selecting them and what powers you give it and if that would be an appropriate model, as you see it, envisioned under this act?

Mr Waddell: First of all, maybe I could ask the members of our forest advisory committee who are here today if they would please stand. Thank you. I did not solicit their coming, by the way.

Mr Hodgson: That speaks well.

Mr Waddell: In terms of how did we select our members, we advertised for four or five members from the general public in the local newspapers and then we tried to contact every major group, the Federation of Ontario Naturalists, the snow machine club, OFAH and so forth, and we asked them to appoint a member. We were overwhelmed with the response. Everybody we contacted was interested in having a person on the committee.

We meet once a month, and it is strictly an advisory committee. However, they do make recommendations to us and we try our best to accept these recommendations and we have promised them if we cannot accept any recommendation we will come back with a full explanation as to why we cannot accept the recommendation. Over the two-year period, I think we have about eight recommendations in place now that they have made to us.

The main function is just coming up. They will provide input into our new timber management plans that we are working on right now and the draft plan is due next summer.

I would think, depending upon the representatives that you can pick, and we've been well blessed with people who really feel for these issues and who are intelligent and come well prepared for the meetings, and we have some very interesting meetings, local citizens' committees can really contribute to a well-rounded series of recommendations.

I don't know if I've answered all your questions there or not.

Mr Hodgson: Yes, you have. It's people who live in the communities and actually use the forests and you've solicited their help and advice.

Mr Waddell: Absolutely. Every one of these citizens lives within a few miles of our forest management agreement area.

Mr Hodgson: Sort of unrelated but kind of related is the definition. You called for a definition of the concept of sustainability. Yesterday, the first day of the hearings,

we were in Sault Ste Marie and we heard a number of groups call for the definition of sustainability in terms of an ecosystem. They wanted the manuals to be more definitive in terms of recognizing, as we mentioned earlier, blueberries, but they were talking about all species in the forest.

Is that not a slippery slope to an area where we don't have enough scientific information to stop forestry practices? Are you concerned about that at all?

Mr Waddell: Very much so. For some of the environmental groups that is their platform. They would like to say, "Until we have a complete inventory of all resources, don't do anything," and of course that's an ideal situation, but we're a long way from reaching that. Until we do reach that situation, which may be several decades away, I believe we have to proceed in forest management with the best information we have available today and with the most commonsense approach, to try to continue to carry out timber harvesting without negatively impacting on the other forest resources.

Mr Carr: Any time left?

The Vice-Chair: A quick question.

Mr Carr: Page 13 was a very powerful summary, and I hope, if it's possible, I can get another copy of that to send around to some of my other colleagues.

I was interested, though, in what percentage of your costs, because as you know you've got labour, you've got WCB costs, taxes and so on, would be in terms of the cost of land. Do you have a percentage figure that you could give us?

Mr Waddell: That would be land?

Mr Carr: Yes, acquiring land.

Mr Waddell: The acquiring of land?

Mr Carr: Yes, the cost of the land in terms of—for example, as you know, what's going to happen with the leases. What percentage of your costs now are you paying out?

Mr Waddell: Of course, the land that we have in our forest management agreements is all crown land. The direct cost we have for that is what is known as the area charges, and that works out to \$102 per square kilometre per year.

Mr Carr: And what's that percentagewise? Very small to your overall cost of operation?

Mr Waddell: Relatively, to your finished product.

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Mr Carr: What do you see happening if this bill comes in? What do you see happening to your costs then?

Mr Waddell: I would like to make one thing clear, that we have no objections to the stumpage forest renewal charge concept or to the forestry future fund. We believe that both of those concepts are good and we have supported them in our discussion with Mr Carman. It's how they may be applied that concerns us and the other issues that I have in here.

I think the major cost impact to both large and small companies will be in the process-oriented requirements that this bill dictates. So much of that is in these manuals

that we haven't had a chance to absorb that it's very difficult to begin—I can't begin to put a figure on it. But over the last few years the process part of our lives has just increased almost weekly and we see this bill, these regulations and the manuals as only compounding that.

There's no question in our minds that there is a definite impact to cost here and I'm not talking about the cost of renewing our forests. We're quite prepared as a company to do that and we always have been.

Mr Wood: Thank you very much for your excellent presentation. It's good to see you again. I've run into you a number of times over the years as a former president of what they now call CEP, so it's good to see you making a presentation.

I want to touch a little bit on one item, the second recommendation on page 13, and hopefully that you're going to bring forward a number of ideas and suggestions, put them in writing and get them to us on what amendments you think should be put in there. That'll be helpful in seeing the final draft of Bill 171 because there will be amendments that will be dealt with in the middle of September and we'd like to hear from yourself and anybody else in the area, if there's something that you might think of after you leave the meeting.

I just want to go back to page 10. You've used two words there, the "sustainability" and the "ecosystem." It seems like you're looking for a broader definition or explanation of those two words. I want to get your version of how you would define it, in as small an amount of paragraph as possible, and whether you feel that these definitions would have to be in the legislation or could be in the manuals that were produced around the end of July and distributed some time after August 2.

Mr Waddell: I'm not sure they'd have to be in the legislation, but I think the manual itself would be satisfactory because that is a little more flexible and I think there are some advantages in having some flexibility in these definitions as the years go by. But we just haven't seen any definition of these terms yet and it's worrisome to us.

I don't think, Mr Wood, I am prepared to try to give you a definition of sustainability or forest ecosystem here, and I think this is the problem that most of us face. They're new terms, they're very complex and certainly it would take some heads to go together to come up with a definition that would be acceptable. But it's got to be done and it has to be something that the majority of the users of the forest can accept and that you can define it and apply it and recognize when sustainability is or is not being achieved. At the moment I can't do that for you.

Mr Derek Fletcher (Guelph): Thank you for your presentation. It's been 25 years since I've been to Espanola. Everybody else was going to Woodstock. I was coming to Espanola, and it has changed. I'm very pleased with what I see in Espanola.

I'm a former president of a CPU local in Guelph, Local 1199, so my background is in the paper industry. But I'm one of those, I guess, damned environmentalists, and Howard Hampton, the minister, has a lot to do when he goes to caucus to satisfy everyone. I'm one of those

people who says, "As far as I'm concerned, in the future we will not be cutting any trees," and Mr Hampton has to try to satisfy me when he comes to caucus.

He does have a tough job when he does come to the caucus meetings with proposals such as Bill 171, because he is not satisfying my needs and, as far as I'm concerned, he's not satisfying the people I represent in the Guelph area who elected me. So, again, Mr Hampton can say that he's going to try and protect the industry. As far as I'm concerned, he's not protecting my interests. I'm not trying to stick up for Mr Hampton, but his job is a tough job when he comes to caucus with all the varying views and different views that do go on in the caucus meetings.

As far as—

The Vice-Chair: The other representatives have now arrived.

Mr Fletcher: Oh, they have arrived?

As far as Espanola and what's going on in this area, when you picture your citizens' committee, the input from the citizens' committee—and I think you may have answered it already but I wasn't quite sure if that's the way it was going—are they people who use the forest products, who are associated with the forest products industry, or are they just people away from the forest products industry who are on this committee? You say you have about 25 people.

Mr Waddell: Yes. Obviously, in a town of this size where the great majority of the people who live here work for E.B. Eddy, we do have I believe two or three members who are company employees, and they are unionized employees, by the way, so they're quite free to speak their minds.

Mr Fletcher: Union or non-union, I think you can speak your mind. I don't think that has anything to do with it.

Mr Waddell: Certainly the other members of our committee all use the forests in one aspect or another: for recreational purposes; there is a licensed trapper on there, for example; and the great majority of the other people all use it for fishing, hunting, cottaging, tourist camps; we have a fly-in operator, that sort of thing. I think I can safely say there is nobody on that committee who does not travel through our forest management agreement areas and have an interest in maintaining the environmental aspects of it.

Mr Frank Mclash (Kenora): I'd just like to follow up on something that Mr Fletcher has touched on. Being from Kenora and having Boise Cascade, of course, as our major industry in that area, I'm very interested as well in the citizens' committee. Just as a comment and maybe a suggestion, do you have any criteria, like written criteria, as to how this committee is formulated—you were mentioning some of the people who are involved—criteria on involvement that you could possibly submit to the committee that we could take a further look at?

Mr Waddell: I'm afraid we don't. I'd be happy to give you a list of the members of the committee and the organizations they represent. We really went to the organizations, like Canoe Ontario, FON, OFAH,

explained to them what the mandate our committee was and asked them if they could appoint an appropriate representative, obviously somebody who was willing to spend the time and who had a real interest in forest management, and almost without exception we've been very happy with the members appointed.

With the members we got at large, we did advertise in the paper and we did interview a number of them to determine what their background was, their level of interest and so forth, and then we offered the positions to the ones we felt would fill the bill.

Mr Miclash: Great. I think, Jim, with what you've given us here, and along with that list, it would be very helpful to us just to get an idea, as you say, of the backgrounds and the people you did approach for that membership. Maybe the clerk could possibly get that? Thank you.

Mr Waddell: I'll just mail that to you, Frank.

The Vice-Chair: To the clerk, please.

Mr Brown: I think the first thing I should do, Jim, is make a request on behalf of the committee Chair, who would like one of your posters.

Mr Waddell: The moose poster?

Mr Brown: The moose poster.

The Vice-Chair: I mentioned that coming in yesterday. I like the poster.

Mr Waddell: We'll hand-deliver it to you personally.

Mr Brown: He's the only Liberal member on the committee not from northern Ontario, so we want to see that he gets a picture of a moose.

I think your comments on tenure are very good. I explored this issue a little bit yesterday in my comments in Sault Ste Marie. One of the illustrations I gave was our recent difficulties with the treatment program for jack pine budworm. I wonder if you could tell the committee what E.B. Eddy's involvement was and how much forest ended up not being on your limits, that didn't get treated because the government wouldn't do it—that's clearly how it was—and how that impacts on tenure. That's really the point I was trying to make.

Mr Waddell: The jack pine budworm, for those of you who don't know, is a very serious insect pest to the jack pine tree and can wipe out or seriously damage large sections of forest in northern Ontario. We had a serious infestation in the 1984-87 period, and at that time the Ministry of Natural Resources carried out very adequate spray programs over hundreds of thousands of hectares in this area of the province. Even with that good spray program, something like 7% of the volume of jack pine in this general area was destroyed.

1110

In the early 1990s, the budworm returned, and it became very obvious in 1993 that we were going to have to spray in 1994. We put on quite a campaign with MNR to spray. We met with the minister on a couple of occasions but, frankly, Mr Hampton told us there just wasn't money available. So it was a case of E.B. Eddy either picking up the tab for it or our forest getting unprotected.

The ministry was able to supply us with the biological insecticide known as BT to carry out spraying on 21,000 hectares, which is what we did on the lower Spanish forest management agreement area. We believe the spray was quite successful. We paid the entire cost of the spray program other than for the BT. The ministry supplied us with some technical assistance and advice, but the actual cost of the spray program the company absorbed.

There's no question, as Mr Brown has suggested, that if we did not have security of tenure, we would not have spent that money this year. Why would we? We fully anticipate that we will be in business and we will be harvesting those trees some time in the future under the 20-year evergreen concept licence we have now. With Bill 171 we're not quite so sure. I can't give you a figure on the balance of the area outside the lower Spanish forest management agreement area that should have been sprayed, but I suggest to you it's probably two to three times the amount of area we sprayed; 50,000 to 60,000 hectares might be an appropriate figure. But there certainly was a large area outside of our own agreement area on crown management units that the ministry did not protect, did not spray.

The Vice-Chair: Thank you very much. That will have to conclude your presentation. We certainly appreciate your thoughts and encourage you to continue to be involved in this, as I'm sure you will be.

NORTH SHORE LOGGERS AND TRUCKERS ASSOCIATION

The Vice-Chair: Stéphane Fabris will be presenting for the North Shore Loggers and Truckers Association. We have simultaneous translation; I understand the presenter will be using French. If you prefer to make the presentation in French, il y a la traduction simultanée. Les machines sont en fonction.

Mr Stéphane Fabris: The presentation will be in English. My name is Stéphane Fabris. I am a representative of the North Shore Loggers and Truckers Association. I'll be speaking here just briefly to voice our concerns concerning Bill 171.

(1) The manuals relating to Bill 171 were received by the association on August 11, 1994, which left no time for the association to meet and discuss the contents. Only the executive of the association had the opportunity to briefly view parts of the manuals. There has been no time for the proper professional review of the government proposals involved. The association would require a longer time span to review the documents once they have achieved a more complete stage, as they aren't complete at the present time.

(2) The the MNR is currently, by its own account, understaffed and behind schedule in all aspects of forest management, including, specifically, the current five-year planning process on regeneration. With Bill 171, is the government attempting to transfer all of its obligations to the industry so that it no longer has to account to the public for past practices? By shifting the accountability of forest management to industry, the MNR will now be able to point the finger directly at industry and avoid any direct responsibility.

(3) The draft manuals are very vague in what will be

required of forest operators. The proposed legislation might impose the cost of forest surveys on small operators. Why should we alone pay for a survey, inventory or study which will benefit all sectors of forest users? The current inventory maps are woefully out of date. We are being penalized for past inadequate ministerial management and planning.

(4) Small contractors are increasingly worried by the amount of discretion and power given to district MNR personnel. With Bill 171, minor field technicians will now have the power to levy administrative fines, yet these same ministry personnel are never held accountable for their own actions which may cause irreparable harm to the forest.

(5) What kind of information is contemplated being furnished by forest licensees according to the Forest Information Manual? Most of the members of our association do not have the facilities, time, money or background required to provide the MNR with the additional paperwork. Bill 171 marks the end, in effect, of the small independent contractor.

(6) Small independent contractors lack the expertise and training to prepare forest management plans. The cost associated with hiring outside expertise would drive a lot of the members, or most of them, out of business.

(7) What role will the MNR play once Bill 171 is enacted, apart from policing?

(8) Bill 171 does not address how funds will be allocated from the forest renewal fund. Our membership fears that funds collected within one district or management unit may be applied to another area to the detriment of the producing unit's forest.

The Vice-Chair: Thank you. Now we give each caucus some time to ask questions, and if you'd like to give some answers, it's up to you.

Mr Wood: Thank you very much for your presentation. I missed the first couple of minutes, but thank you for coming forward with ideas and suggestions, and you've raised a number of points.

What changes do you think should be put into Bill 171 in terms of protecting the small, independent loggers or contractors? What do you think we should put in there? I know the present Crown Timber Act, written in 1952, hasn't addressed all the concerns, because since I have been elected I've heard a number of independent loggers and small contractors asking, "Where is our future and what is happening?" So it hasn't happened under the present legislation. What would you like to see in the proposed legislation that would give some security to your operation or other individuals you're working with in your associations?

The Vice-Chair: Do you want to respond?

Mr Fabris: No.

1120

Mr Wood: All right. I'll just make another comment and then turn it over to another who wants to ask some questions.

After the environmental assessment hearings were held and the recommendations were finalized, on page 30 of

the manuals the terms and conditions, local committees recommending how the forests should be managed, are spelled out in the manuals. I know you said you only received them a few days ago even though they were distributed some time around August 2.

The makeup of local committees—I'm sure you're going to have a chance to read it later on—is spelled out in there: how they should be appointed and what representative groups they should come from. The government of Ontario has agreed that this is what should be done and we're bound by the environmental assessment. It's spelled out in those manuals. That's the comment I wanted to make.

Mr Bisson: I just want to respond to a couple of the things.

Failure of sound system.

Mr Bisson: I guess I don't get a chance to speak is what it comes down to. Hooray.

I want to comment on a couple of the points you made because I think they need some clarification. I would make this offer: If your association would like to have the opportunity to sit down with somebody and pose the questions to get a little more input on this, I'd be prepared, if you want to contact me, to try to arrange that. I recognize that a lot of committees—and this is not the fault of this committee; I think it's always been the case for the past number of years under all governments. At times, by the time the committee goes on the road and information is presented, there's not enough time for associations to deal with it. That's the failure of the system under all governments; we've all had the same problem to deal with.

In regard to the question of licences, when you talk about the smaller operators who are now cutting under district cutting licences etc, you make the point, and it's a valid one, that you sometimes don't have the expertise within those operations to do the kind of work in terms of reforestation that has to be done under this act. But what the act provides for, and this is what I want to clarify, is that the operator has a choice: He or she can apply for a licence under section 23 or section 24.

Basically, section 23 is what E.B. Eddy operates under now. It's a forest management agreement. They sign an agreement with the crown that they're going to have tenure on land for a period of 20 years. There's an evergreen clause in it, just as there was in the old one. You would sign that agreement and would go along doing business the way it needs to be done.

If you're a smaller operator and you don't want to do that, under the act you're going to be able to apply for a licence under section 24 and then you can enter into an agreement with the crown to be able to do the reforestation for you or to help you do the reforestation. That's really the choice of the independent operator. If the independent operator decides, "I want to enter into an agreement with the crown that the crown will help me to manage the unit, how I approach the cutting and the reforestation," and the crown does it in actual fact, then the crown will assume that responsibility in a licence it signs with you. Then the crown will draw on the trust

fund, the same way that E.B. Eddy or anybody else would.

The whole idea is to make sure that when we approach cutting, we look at it over the long term and that there's money at the end to be able to do the work that needs to be done.

That's the first thing I want to say. I wouldn't want you to leave here thinking that independent operators—a lot of those people are in my area; I come from Timmins and a lot of friends of mine are in that business—would have to all of a sudden hire foresters and do all kinds of things they may not have the expertise to do now. You'll have the ability under this act to deal with that. It'll be the choice of the independent operator.

One last point—

The Vice-Chair: Sorry, Mr Bisson. If you want to make a presentation, you're going to have to get on the list of presenters.

Mr Bisson: One second, Mr Chair, on a point of order.

The Vice-Chair: No, Mr Bisson.

Mr George Mammoliti (Yorkview): You've got to listen to a point of order, Mr Chair.

The Vice-Chair: Okay, a point of order.

Mr Bisson: As a committee, the opposition has an opportunity to point out failures in a bill and I have the opportunity as a government member to point out—

The Vice-Chair: What is your point of order?

Mr Bisson: That's what I'm saying. The role of the opposition is to be able to point out—

The Vice-Chair: There's no point of order. Did you want to respond? Mr Brown.

Mr Bisson: Mr Chair, I have a question.

The Vice-Chair: I'm sorry, your time has run out. Mr Wood asked questions earlier, and you had sufficient time to pose questions but you took the time to make a lengthy presentation. You had the opportunity to ask questions.

Mr Bisson: When there is a lengthy presentation—

The Vice-Chair: I'm sorry, Mr Bisson.

Mr Bisson: Mr Chair, I'm—

The Vice-Chair: Could we have some order, please. Mr Brown.

Mr Brown: Thank you, Mr Chair. First I'd like to thank you for coming today and talking to us. I think the members should understand that you represent a group of people who employ people throughout the entire North Shore. Most of your operations are located in the smaller towns like Spanish or Blind River. Your own family is a major employer in the city of Elliot Lake, in a place that needs employment desperately, and you're one of the few bright spots in the economy of the area.

Over the last period, you faced a doubling of your area charges. Your stumpage fees have gone up. At the same time your services from the ministry have gone down. This has been a very interesting time to be in your business, I take it. I think that's a yes.

I was interested in Mr Bisson's analysis of how the

crown management unit is going to work because I have asked that question of ministry staff and have not received an answer. My answer from the ministry staff is, "We still have to work all of this out." Later on in the hearings I think we'll have the ministry staff back and find out if Mr Bisson's analysis of how this is to work is correct.

Mr Bisson: My analysis is always correct. You know that.

Mr Brown: You tell us so, Gilles.

Anyway, thanks for coming. We appreciate the presentation. We share your view that the manuals have not been put out, that the regulations have not been put out, in time for any kind of informed review—

Mr Bisson: Is this a question or a presentation? Is there a question in there?

Mr Brown: Mr Chair, I didn't heckle.

The Vice-Chair: You have the floor.

Mr Brown: All I'm suggesting to you is that as we go through these committee hearings, hopefully more people will have had an opportunity to give us informed information regarding the manuals and the regulations and the obligations that are put on the industries that are operating in our forests. If not—

Mr Bisson: Is there a question?

The Vice-Chair: Mr Bisson, come to order, please.

Mr Brown: If not, we're going to have great difficulty proceeding in an informed way with this legislation.

The Vice-Chair: Did the Conservative Party want to make any statement or question?

Mr Hodgson: I'd really like to thank you for coming in this morning. I share a lot of the concerns you've mentioned. And it's been mentioned before about the manuals not getting out to people so that your organization could meet and come up with concrete proposals, but I look forward to you sending those to us, and I'll go through it.

1130

The fund allocation and the definition of that: That's a good point, and I look forward to hearing either Mr Bisson or the ministry staff defining exactly how that's going to happen in the future. The cost of preparing the work plans, I believe, is what you're getting at, not the actual cost of replanting the trees. You can contract that out to the ministry.

Interjection.

Mr Hodgson: Yes, defining what you can do when you go into that area, and do you have to account for all the different ecosystem factors? That hasn't been spelled out yet that I can see. I look forward to seeing that, and the cost to the independents or the small forester.

Mr Fabris: Not only cost; just the knowhow, how to go about it.

Mr Hodgson: I was wondering if you've discussed allocation with anybody because, as you mentioned, this industry benefits everyone in Ontario. There has been a deficiency in the mapping or the data collection, and you've got to have a base to start with if you're going to

audit it at the end. You're suggesting that the government is getting away from its accountability for past practices and is going to point the finger at industry and say, "You've got to update our inventory, tell us what's out there, and then audit it."

Has there been any discussion on maybe the allocation of trust funds being used in general to bring in this inventory so it's not borne by the person who actually goes out and does the work in the field, if he contracts it out? On a small chunk; I'm not talking about the big forest management areas but on crown land in general. I'd like to see that examined in the future, if you could send us your comments on it on the financing of it.

Thank you very much for coming. We appreciate it.

Mr Fabris: Thanks.

The Vice-Chair: If you have any further comments, if you can leave them with the committee or send it to the clerk of the committee later on, it would be appreciated. We do appreciate your presence.

H. ET R. FABRIS INDUSTRIES

The Vice-Chair: I understand that Huguette Fabris is here now. Huguette Fabris va parler. Vous allez faire votre présentation de la part de H. et R. Fabris Industries.

M^{me} Huguette Fabris : C'est correct.

The Vice-Chair: Alors, vous avez une demi-heure. Vous pouvez prendre les 30 minutes vous-même ou peut-être, si possible, laisser du temps pour des questions et réponses à la fin. Alors allez-y.

Failure of sound system.

Le Vice-Président : Je m'excuse pour cette interruption. Peut-être que vous voulez recommencer votre présentation, et on va vous donner les 30 minutes comme prévu.

M^{me} Fabris : Merci. Je suis Huguette Fabris. Je suis propriétaire avec mon mari, René Fabris, d'une entreprise familiale. Nous sommes établis à Elliot Lake depuis les derniers 37 ans et nous employons, à l'année longue, entre 20 et 30 employés. Alors, je m'adresse aux représentants du ministère des Richesses naturelles.

Vous conviendrez qu'il nous est difficile de commenter sur le projet de loi 171 étant donné que nous avons reçu le manuscrit le 11 août 1994, ce qui laisse bien peu de temps pour étudier et comprendre tous les nouveaux changements auxquels le Ministère veut bien nous soumettre.

En vertu du projet de loi 171, concernant les nouveaux plans de gestion forestière, quelle assurance le Ministère donne-t-il aux producteurs forestiers ainsi qu'à la population face à la régénération de la forêt ? Dans le passé, on a augmenté toutes les charges liées à la foresterie mais sans toutefois faire plus de plantations. Avec le projet de loi 171, le gouvernement s'assure de rendre le travailleur forestier responsable d'un système qui lui a échappé au cours des ans.

Le Ministère va-t-il seulement agir en dictateur envers le travailleur forestier, ou fera-t-il en sorte que tous les usagers de la forêt aient leurs responsabilités morales et monétaires, y compris toutes les personnes qui se servent de la forêt comme élément de plaisir ?

Quant aux droits de reboisement et droits au fonds de réserves, comment seront-ils taxés ? Il ne faut pas oublier que nous n'avons aucun contrôle des prix du marché ; nous sommes des travailleurs à la source. Nous avons un revenu qui est minime. C'est pourquoi il est utopique de penser que nous pourrions faire face à toutes les conditions de travail que propose le projet de loi 171.

Ce sera un défi sans relâche que de rester en activité ; l'élimination graduelle se fera des petits entrepreneurs forestiers. Force est de reconnaître que pour toute petite compagnie de bois de coupe, il y a les efforts ardues de familles complètes qui s'y rattachent : c'est-à-dire des parents et des enfants qui ont dû, au détriment des crises économiques, faire face à de constants problèmes financiers pour rester concurrentiels sur le marché du travail.

Nous sommes en accord avec une grande protection de nos forêts, une bonne gérance, et surtout, une régénération constante de nos ressources naturelles, mais le gouvernement doit travailler en collaboration avec nous.

Le Ministère peut bien mentionner des montants exorbitants d'infractions dans le relevé du projet de loi 171. Nous avons des revenus qui sont minimes, alors la réalité est toute autre.

Nous prions le gouvernement de réviser le projet de loi 171, de nous donner surtout le temps nécessaire afin de nous renseigner et d'étudier son contenu. Merci.

Le Vice-Président : Ça termine votre présentation ?

M^{me} Fabris : Oui.

Le Vice-Président : Merci.

Mr Brown: Welcome, Madame Fabris. I guess my comments again relate to the lack of opportunity you've had to look at these regulations and manuals. You've had them since Monday, I guess.

Mrs Fabris: We received them on August 11.

Mr Brown: So neither you nor the association has had really an opportunity to go through them in detail.

Mrs Fabris: No, we just had a fast look.

Mr Brown: We, of course, have had the same difficulties. These committee hearings were originally scheduled to start at least next week, which would have given a little bit of time, but that was not to be. The government House leader insisted that we come out this week.

1140

As we go through this, hopefully people will have had some more opportunity, and the parliamentary assistant has indicated that there'll be another workshop later on, as we go through and have a look at these, for the forest companies to be able to look at these regulations, but your particular group will have some difficulty, I assume, getting input into those regulations.

I think you made a good point in noting that the government has doubled the area fees. They have increased stumpage radically already.

Mrs Fabris: And on the aggregate too.

Mr Brown: You've also seen diminished service from the ministry in terms of helping you mark trees, or whatever it is that you need done. That's had quite an impact on your bottom line, no doubt.

Mrs Fabris: Yes, it did.

Mr Brown: Do you know how many employees are involved in the group? Not just your company. I think you told us that was from 20 to 40.

Mrs Fabris: In logging I'm sure there is a thousand for sure. There are people from Echo Bay up to Espanola. Oh, yes, definitely.

Mr Brown: For many of the smaller villages and towns through this area, you are the major employers in those communities. I look at Spanish or Blind River, Thessalon.

Mrs Fabris: Yes, definitely.

Mr Brown: It's hard, as a northerner, not to look at this as a real redistribution of the way money's being spent by the government. Certainly by demanding that the forest companies spend far more money in this area and the government provide far less services to the companies, it seems to me that what we're seeing is a transfer of revenue from northern Ontario to southern Ontario.

I just wonder in our resource-based economy whether that will have—well, I know it will have a very difficult effect on our producers and our incomes and our standard of living in this area. I don't really know what the question is here, but it seems to me that we're in for a very difficult time as people adjust to this new regime.

Mrs Fabris: There is always a limit regarding the money. You cannot spend more than you receive.

Mr Brown: You made a good point about market price. Sometimes it's good, sometimes it's bad, and you have to stay in business both times.

Mrs Fabris: Yes.

Mr Carr: Thank you very much for your presentation. Up to this point, recognizing that you haven't had any time to go through the regulations, have you had any discussions, though, prior to that with any of the ministry officials knowing this bill was coming out? Have you had any feedback to them?

Mrs Fabris: In July we met with Mr Hampton in Sault Ste Marie, and it lasted about 45 minutes. I hope you understand everything.

Mr Carr: Yes, fine, perfect.

Mrs Fabris: We didn't know at all what it was about, just a rough aspect of the new bill. He told us there's going to be a hearing in the north in August. That's all we had, but I went myself in July. I don't remember the date. We drove to Sault Ste Marie. But it lasted 45 minutes.

Mr Carr: I guess you don't know then, having not had too much time to study the bill, whether some of the things you talk about got incorporated in the bill.

Mrs Fabris: No, not at all.

Mr Carr: You don't know. One of the presenters this morning said that he felt that this bill—I'll use a direct quote from his summary—"gives the minister sweeping powers and is unnecessarily heavy-handed toward the forest industry."

Would you be able to comment on your perception or is it still too early in terms of whether you read the bill?

Do you think that's a fair statement or would you be able to comment on that?

Mrs Fabris: The bill itself?

Mr Carr: Yes. That statement that was made that it gives the minister too much—

Mrs Fabris: As a small operator, we feel it's too much responsibility. I don't know. I know for sure my company and everybody else, there is a limit. We won't be able to hire other people to make a *pleine gestion* plan, and do this and that, because the money isn't there.

Mr Carr: Right now, maybe you could just give us a bit of an overview so we understand exactly what is happening to your company and the industry, particularly people like yourselves, the small—

Mrs Fabris: What's happening with my company? Myself, I'm very lucky. Our two sons are involved. It's a family business. I do all the office work and that's the way we could survive.

But if we have to pay, to hire a specialist to even *marquer les lignes*—line mark, you know—if we have to spend more money to prepare all the cutting plans, we won't be able to survive through that, because the money just isn't there.

Mr Carr: Hopefully, not to defend the government, but I know when bills and regulations as detailed as these are put together, it's very difficult to get them out and meet time frames, and they change. Hopefully, some of your concerns will be taken forward and you will be listened to, because I think people like you are the ones who start businesses that have really built this great province of ours and I assume that they would want to get the input from you.

Hopefully, even though you haven't had too much of a chance now, your thoughts and concerns will be taken forward. As it gets on and you get to understand the bill and the regulations, if you would forward it, we'd be pleased to look through it and help with any amendments that you think might be helpful. Good luck.

Mrs Fabris: Thank you. The feeling we have is that the government is acting more like a dictator than working with the government, what should be.

Le Vice-Président : Juste une seconde. Alors, ça fonctionne comme ça : il y a d'abord quelqu'un de chaque côté. Il y avait d'abord les Libéraux, les Conservateurs et maintenant les représentants du gouvernement. Monsieur Bisson, vous avez à peu près cinq minutes.

M. Bisson : Je vais essayer de ne pas avoir une chicane cette fois-ci. Premièrement, Madame Fabris, j'aimerais vous remercier pour venir faire votre présentation. Vous avez touché sur un point ; beaucoup de monde ont touché là-dessus, pas seulement sur ce comité mais, comme mon collègue Monsieur Carr a mentionné, beaucoup de comités où moi j'ai siégé, puis des comités même dans le temps des autres gouvernements. C'est toujours la plainte qu'on n'a pas assez de temps pour être capable de faire la revue des matériaux pour faire un commentaire.

Spécifiquement, sur la question qui nous concerne aujourd'hui, le projet de loi 171, combien de temps pensez-vous que les opérateurs indépendants et les

compagnies comme E.B. Eddy auraient besoin pour faire une critique ou une revue ?

M^{me} Fabris : Moi, je ne peux pas parler pour des forêts ce matin. Je parle pour des gens dans notre situation. Dans notre situation ce matin, il y a moi qui ai pu venir ici, puis il y a mon fils, parce ce que tous les autres gens travaillent. Ils ne pouvaient même pas perdre une journée de travail.

M. Bisson : Je comprends. Mais quand même, la question que je demande, c'est une question de processus. Combien de temps avant l'arrivée du comité aujourd'hui pensez-vous aurait été nécessaire pour avoir l'information ?

M^{me} Fabris : Premièrement, c'est que tu rencontres les travailleurs forestiers, qu'on leur téléphone. Ça, c'est en fin de semaine que ça se produit, parce que les gens sont tous dehors au travail. Ce que ça veut dire, c'est que tu vas commencer à les appeler en fin de semaine. Tu as besoin d'un mois pour les rassembler, et puis, à part ça, pour pouvoir engager des spécialistes pour t'expliquer, parce que les gens, il ne faut pas rêver : quand ils nous arrivent avec un gros livre comme ça, c'est des gars qui ont travaillé 14, 16 heures par jour et ils ne le lisent pas. Ça fait qu'il faut que tu engages un spécialiste qui lit les points puis qui te l'explique, ou que le gouvernement vienne te l'expliquer.

M. Bisson : Je pourrais vous faire une affaire. Je comprends votre situation. Si ça vous aide et que votre association a besoin d'avoir l'opportunité de s'asseoir avec quelqu'un pour aller à travers, pour l'expliquer puis avoir un dialogue pour être capable d'avoir des réponses à vos questions puis de faire des commentaires, vous pourrez communiquer avec moi ou avec Monsieur Wood. On serait préparés d'organiser que le Ministère siège avec vous pour avoir une opportunité de vraiment regarder puis faire vos commentaires.

En attendant, si vous avez des commentaires directement à cette législation à ce point-ci et après ce processus-là, passez-les directement au comité et nous autres. On pourrait s'en servir quand ça vient aux révisions du projet de loi. Enfin, si vous avez besoin d'aide, on est préparés à vous aider pour que vous obteniez —

M^{me} Fabris : Il y a un point que j'ai mis là-dedans, puis vous, vous parlez bien français et je peux en profiter. C'est toujours nous autres, les travailleurs forestiers, qui payons. On aimerait, comme j'ai mentionné ici, que tout le monde soit responsable des forêts, hein, tous ceux-là, même ceux-là qui ramassent les bleuets, qui ont autant de responsabilités morales que monétaires.

M. Bisson : C'est une question qui est intéressante, mais je sais, comme une personne qui vit dans le nord — c'est moins comme politicien — j'arrive puis je dis qu'une charge surplus faisant affaire avec une licence de chasse ou pour ramasser des bleuets, je pense que beaucoup de monde dans le nord de l'Ontario —

M^{me} Fabris : Mais vous ne vous gênez pas pour nous autres, par exemple.

M. Bisson : Oui, mais c'était le système qui a été établi avec le temps. Présentement, une des affaires que vous avez dites dans votre présentation, c'est que vous

avez une crainte que vous allez avoir plus de responsabilités mises sur vous comme indépendants —

M^{me} Fabris : Définitivement, oui.

M. Bisson : — et vous voyez que vous avez besoin d'aide parce que vous n'avez pas les moyens pour être capable de procurer les forestiers et autres personnes. Êtes-vous au courant que la législation vous donne l'opportunité d'utiliser le Ministère et qu'eux-autres, à la fin de la journée —

M^{me} Fabris : C'est récent ça ou —

M. Bisson : C'est dans la législation.

M^{me} Fabris : C'est dans la législation. Comme vous voyez, on l'a reçue jeudi.

M. Bisson : Encore, le dernier point : Je vous fais l'offre. Si vous voulez avoir une opportunité de mieux étudier le projet de loi, je vous demande de faire ça, et si c'est nécessaire, on pourrait procurer —

M^{me} Fabris : Avec votre nouveau plan 171, est-ce qu'il va y avoir plus d'employés au ministère des Richesses naturelles pour surveiller ça ?

M. Bisson : Non, pas nécessairement.

M^{me} Fabris : Pas nécessairement.

Le Vice-Président : Probablement que non, hein ?

M. Bisson : Quoi qu'il arrive, c'est qu'il va y avoir plus d'habileté d'être capable de répondre parce que beaucoup de cet ouvrage va être fait directement par les compagnies forestières les plus grandes, ce qui va donner la chance au Ministère de travailler plus, je pense, avec les petits.

M^{me} Fabris : Okay.

M. Bisson : Mais, si vous voulez, on est prêt à s'asseoir avec vous pour l'expliquer.

M^{me} Fabris : Okay.

Le Vice-Président : Merci de nouveau pour votre présentation. C'est bien apprécié. Comme Monsieur Bisson l'a dit, si vous voulez encore des contacts, vous pouvez avoir ça avec le Ministère et bien sûr aussi avec notre comité par l'entremise du greffier.

M^{me} Fabris : Merci.

Le Vice-Président : Alors, merci de nouveau.

This concludes the hearings for this morning. We'll be back in this hall at 1:30 this afternoon. Thank you very much and we'll see you later.

The committee recessed from 1152 to 1331.

PETER DUINKER

The Vice-Chair: Could you take your seats again, please. The general government committee will continue its hearings on Bill 171. I understand that the second presenter, Professor Duinker from Lakehead University, is here. If you wouldn't mind taking your seat now. I think you were here this morning and you know what the proceedings are, half an hour. If you'll leave some time for questions and answers at the end, sir, it would be appreciated. Please go right ahead.

Dr Peter Duinker: Thank you very much for giving me this opportunity to make a presentation today in Espanola. You might have expected to hear from me or my colleagues in Thunder Bay, and indeed you will hear

from my colleagues in Thunder Bay. I'm not here because we wanted to spread out the professors across northern Ontario or because I wanted to get to you first before they did. I'm here because I won't be in Thunder Bay next week and I'm vacationing on Manitoulin Island. I should be out taking in the grain on my dairy farmer host's farm, but he granted me leave today to come and make this presentation.

By way of introduction, I'm a professor of forest management and policy at Lakehead University's faculty of forestry. Let me indicate that I am making a presentation on my own behalf only, not as a representative of the faculty of forestry. I represent no one but myself. I also want to indicate that I am the former co-chair, with Margaret Wanlin, of the Ontario Forest Policy Panel, which, you may recall, toured Ontario in 1992 and submitted its findings to the Ministry of Natural Resources just over a year ago.

For starters, I would like to highly commend the minister and staff for moving forward expeditiously with a forest sustainability act. I'm careful in choosing that word. I don't think it's overly hasty, although some elements of it perhaps seem to be, and many speakers have already indicated not having had enough time to look the materials over.

In my presentation, rather than being comprehensive, which professors are quite likely to be—and I can imagine writing a whole essay on every section of the act; maybe I'll do that soon—I'd like to just highlight a couple of key strengths I see in the act and then I want to make a few comments on some potential weaknesses.

First of all, starting right off with section 1, the purpose of the act, I think this is an excellent statement which corroborates what the forest policy panel found when it undertook its work. It's a statement of forests first.

This is a forest sustainability act, not a forest industry act, not a community development act. It's an act which is dedicated to seeing that the forests are managed sustainably but in the context of sustainability of the material and social benefits which we receive from the forests.

I believe that language is very consistent with directions being taken across Canada today, especially here in Ontario. Perhaps it feeds off the work of the panel, and may I remind you that the work of the panel was published in this document some 13 months ago with the title *Diversity*. It could as easily have been called *Sustainability*, because it's all about that. It's also very consistent with the government's own declared policy framework for sustainable forests, which has been published on this foldout piece with language almost entirely taken from the *Diversity* report. I was quite happy to see a purpose of that nature.

The second point I'd like to refer to is subsection 8(2). This indeed is the teeth behind sustainability. On the one hand, it might make one very nervous that "The minister shall not approve a forest management plan unless the minister is satisfied" that it provides for the sustainability of the crown forest, but it is consistent with the message of forests first. In various interpretations I suppose it

could be a misused element, but I think it has the right flavour.

There is an oblique or an indirect reference to what "sustainability" means. Perhaps that's as far as this act has gone in defining sustainability. It says in two places, 8(2) and just above, in 7(2)(b) as well, having "regard to the plant life, animal life, water, soil, air and social and economic values" and so on. But as many have indicated already to you, and certainly will, we need to go much further, perhaps even in the act, in defining sustainability.

My third point refers to sections 12 and 62. Section 12 speaks to local citizens' committees, and 62 speaks to forest management boards. Having done some research in the field and having heard from people when we were doing the forest policy framework exercise, I am quite pleased to see that the act itself speaks to citizens' committees as advisory structures and perhaps even forest management boards that may be delegated some responsibility by the minister. These are excellent directions in the pursuit of public participation at stronger levels.

The fourth comment I'd like to make may be somewhat obscure to those who aren't forestry professionals. Clause 13(1)(c) calls for the provision of forecasts of the future forest structure and condition. I'm very pleased to see this, having observed that too seldom do we find foresters making explicit projections about how they expect their forests to evolve, even if they have considerable amounts of uncertainty when particular treatments are prescribed and undertaken. I'm very happy to see that kind of language in the act.

I'm also very happy to see something like section 19, which calls on the minister to provide to the Legislature and people of Ontario state-of-the-forest reports. We've had four such reports from the federal government already annually, reports to Parliament on the state of Canada's forests, and it's high time every province got into the same business of letting its citizens know what is the state of the forests.

My final example of strengths I see the act having is sections 45 to 48, the matter of trust funds. Finally, we have a method in Ontario to ensure that sufficient funds are dedicated to regeneration silviculture. Here we have a money cycle that's dedicated to the forest rather than the situation we have at present and have had for some time where silvicultural dollars had to compete with funds for roads, health, education and all kinds of other things that the people of Ontario would like to see done with the public funds. I'll return to several of these points below, but in general I support the enabling capacity of the legislation.

Now on to some reservations and difficulties that I have. The first one is that if this act is indeed going to be known by its short name—and it indeed will; it won't be known by its long name—the Crown Forest Sustainability Act, I believe it should have language of a conceptual and philosophical nature as a basis for forest sustainability. It has precious little to say about the concept of forest sustainability except the few things that it does. I would like to suggest that the act provides a splendid opportunity to codify that basis as it exists in Ontario's policy as of April 1994 in the Policy Framework for

Sustainable Forests. My proposal would be to put that policy framework in its entirety as the opening language of the Crown Forest Sustainability Act.

In section 2, "Definitions," the one I picked up on was that of "forest resource." The language of "forest resource" has been on the tongues of professional foresters and the rest of the forestry community for at least 20 years, and it does not mean something as dangerously narrow as "trees and other plants." That is not a commonly accepted definition for forest resources. One usually thinks of much broader concepts.

I know that gives difficulty if one opens the door to other elements of the forest being looked at as forest resources, because it implicates other legislation. However, my proposal would be that the possibility for other forest resources to be named in regulation should at least be open.

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I already mentioned section 19, the state of the forest report, and that reads, "The minister shall from time to time...." I believe the public of Ontario expects a schedule, and I believe they want to see a state of the forest report pretty soon. My proposal would be to publish a schedule in the act something along the lines of perhaps the longest interval between reports might be five years; they could be more frequent, but no less frequent, and perhaps even indicate by when the first one will appear.

I also want to come back to the matter of the trust fund for forest renewal. The objective there is to guarantee sufficient dollars for renewal, and that's great. The "how" seems to be answered by dedicating a fund which is tied to timber harvest. I don't know what the formula might be, but it may have some combination of area harvested or volume harvested. So the reality is to try to bypass the consolidated revenue, where silvicultural dollars have to compete. I presume that Ontario was looking at the models used in Saskatchewan and Manitoba in thinking about silvicultural trust funds.

What the act does not indicate is how many of these trust funds there will be. In fact, the act says the minister may establish "a" trust fund; maybe that means several. But either way, if there is one trust fund for the entire province or even one trust fund for each company operating forest management agreements or whatever the new language is to call those licences, I see some potential problems. The minister has incredible discretion about what happens to the moneys coming in as forest renewal charges, and I'm concerned, especially if these are at the company level—and companies have a lot of forests—that rich forests may be used to subsidize poor ones. In other words, forests that have a lot of timber to be harvested may be used to subsidize regeneration in forests that yield relatively less.

Secondly, forests easy to regenerate may be used to subsidize forests that are difficult to regenerate. On one hand, that may look attractive to do, but on the other hand, each forest is unique and it has unique people associated with it. This may look like an opportunity to move funds around from forest to forest in a way that may cause some problems. I believe that the minister may be susceptible to lobbying regarding how much of the

funding goes where when it comes to allocation of the money back to the woods.

So my proposal would be to simplify the trust fund concept and establish one trust fund for each forest management unit, of which there are some 100 at the moment in Ontario. I would argue that all the money in each trust would go only to the forest that generated the money by virtue of the timber harvest. Each forest has its own trust fund. That would alleviate some of the problems of moving money around from forest to forest.

My major concern with the entire act has to do with section 66, which is the Forest Management Planning Manual. Some have indicated they've already received the draft copy. We've heard that it's an incomplete copy. Mine may have been mailed to me, but I haven't seen it yet.

For example, the first language about the manual in section 66 says that it "may" contain provisions respecting determinations of the sustainability of forest ecosystems. Well, that means it may not, and I would argue that if this Crown Forest Sustainability Act is to have teeth, it had better provide provisions for the determination of sustainability of forest ecosystems. So while that provision is worded as it is and while so many of us have not seen the manual and are concerned that it's that manual that will actually see the achievement or non-achievement of forest sustainability, whether Bill 171 actually results in legislation that can secure crown forest sustainability depends almost entirely on the contents of that manual. So I can only feel confident about the act when I can feel confident about the manual.

In addition to suggesting a language change to "shall contain" for the manual, I would urge you to ensure, if you can, that the Forest Management Planning Manual receives a proper review by both the forestry community and the general public of Ontario before it is declared fit for use.

So in summary, the Crown Forest Sustainability Act may represent some considerable progress beyond the Crown Timber Act, but it has some significant flaws that I suggest need rectification, and if they aren't, it may indeed be a step backwards, depending on how things play out.

I like the enabling element of the act. Forestry is changing so fast these days. If something needs to be changed to keep pace, it can do so under regulation, which I think is a little more expeditious a process than coming before the Legislature to change legislation. But the Forest Management Planning Manual, in my view, will remain the hinge in whether this is successful or not.

With that, I thank you for the opportunity and welcome questions.

Mr Hodgson: I'm pleased that you came to see us today. I know you're going on holidays next week. That's great.

I enjoyed your report. You've covered a lot of the specific areas. I would just like to go back to the first part of your report. You talked about the concept of sustainability in terms of the forest as a whole ecosystem.

This act, as you know, is trying to do two things. One

is it's trying to say to the world markets that all products coming out of Ontario are from sustainable forests in terms of marketing, and it's trying to make sure that the forests are sustainable in the future as an ecosystem. It's also trying to be sustainable in terms of jobs in the local communities.

You've had a lot of experience studying the forests in Ontario. I wonder if you feel that they should have a specified timber amount as a component of sustainability in terms of jobs that are presently in the area, if that's one of the goals of the act or if you think that should be a goal of the act.

Dr Duinker: I missed what you said you thought should be there, or you were asking me.

Mr Hodgson: Well, an amount, a sustainable amount of product that you can extract from the forests of Ontario: if that should be defined or if it should be left open.

Dr Duinker: With respect to the act, that should be left entirely open. I could raise a number of examples. Let me choose one from farming, which is close to my heart.

If a farmer manages a field, that field has an inherent, let's call it a maximum level of productivity, given the climate and the soil. If the farmer chooses to use no weed control and no fertilizer, the farmer will get so much grain. If the farmer chooses, however, to use those kinds of things in various amounts, he'll get more grain. Now, if we talked about crop sustainability and applying rules on that farmer's crop yields, could we establish a single useful level of crop production? I don't think we can.

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In fact, the situation is even more complex and more bizarre for forests. The productive structure of a forest to grow anything, especially timber, is partly a function of its climate and soils—which we hope won't change, but given predictions of global warming, that even may change—but it's definitely a function of the current forest that's there now, and across all of northern Ontario, all the forests have current forests on them, even the ones that have just been harvested, with new stands growing up. Given that situation and the fact that different intensities of forest management will over the long term yield different amounts of timber, it is impossible to establish a reasonable maximum or minimum level of timber production from any of the crown forests in Ontario.

So it could not be in the act. In fact, as most foresters would urge, it is, under this act and the previous one, left in the hands of the local forester and the stakeholders to determine what is the right level for that forest, given the possibilities to implement silviculture and the conditions of the forest structure and the growing conditions of the soil and the climate.

Mr Hodgson: That's one of the suggestions that we were hearing yesterday in particular, so that's good that you answered that. Um—

The Vice-Chair: A quick question.

Mr Hodgson: No, go ahead. I'm fine.

The Vice-Chair: You're fine?

Mr Hodgson: They will take the time.

Mr Bisson: On two things: one is just an answer to one of the things that you raised, and the other one is a question. First of all, you were pleased that the minister, under the act, will have to report from time to time to the Legislative Assembly the state of the forests. I should maybe point out that through the class EA it was determined that this has to be done every five years, from my understanding, and I'm looking for clarification from the ministry and a nod. I think it's every five years. Okay.

You talked about citizens' committees. One of the presentations—I can't remember which one; it was either yesterday or today—talked about that some people see that not so—well, let's get to the chaff. Some people see that more as a problem than as a benefit. They figure that the people on committee are not people who are totally versed in understanding what it is about forestry. They may have an environmental interest or a community interest and don't see that as a very useful process. What are your thoughts on that?

Dr Duinker: For the folks who have traditionally gained livelihood from the woods, especially through timber, and for the folks who have traditionally been in control of the decisions, the establishment of local citizens' committees does indeed present a challenge, for some maybe even a problem. As a matter of principle, I'm in favour of them, since the crown forests belong to the people of Ontario and this, in my view, represents a reasonable mechanism to find out what some of those citizens think ought to happen and which way the forests should be managed.

It would be highly risky to engage groups of citizens fresh, having given no thought to the circumstances of the woods, to how forest management operates, and ask for their considered opinions hot off the spot. I don't think that's the plan. I don't think that's the way any of the ones that have operated so far in Ontario—and we have a lot of experience building up now—have operated. Foresters and others close to what's been happening in forestry have been bending over backwards helping people understand the realities of how forests are managed, what their values are and so on. I think, given sufficient attention of that sort, local citizens' committees can be highly effective.

Mr Bisson: Do you see a conflict between environmentalists and the forest industry? I guess that's what I'm asking.

Dr Duinker: Yes, I see a lot of conflict, and I also see a lot of—how shall I say?—constructive dialogue when the conditions for that seem to be right. We have examples all the way from the national level to the local level. Some time ago—maybe the group still exists; I don't even remember the name—10 industrial CEOs in the Ottawa area joined up with 10 leaders of environmental organizations and put a dialogue together, and they were astonished at how much common ground they had. Right down to the local level there are a lot of examples in Ontario where folks with a preservation and environmental point of view are getting together with folks with a utilization point of view and working their differences out.

Mr Bisson: Do we have time for one more question? Just in regard to the question of the trust fund, you're not the first one to raise that. You're the first one to suggest multiple trust funds. But under what's proposed in the legislation, each forest would draw down on an account that would be tied to that trust fund. You don't see that as being an answer to some of what you talked about?

Dr Duinker: If there is only one trust fund, no. I found the paper trail on how the trust fund will work in sections 45 to 47 incredibly confusing. It's not clear to me at all how this thing will really work, because money's going in and out of that pot and into other pots. But if an individual forest does not draw to the degree to which it has contributed, then we may be in trouble, especially if the minister has discretion over where those moneys go. Can you imagine if a forest in Lanark county near Ottawa was subsidizing regeneration in a forest near Kenora? That may be great from the standpoint of the whole forest estate of Ontario, but the folks who plant trees or do silvicultural work in Lanark county may not be too happy.

Mr David Ramsay (Timiskaming): I'd like to pursue that and then go further, because I'm quite intrigued by your suggestion that we have a trust fund established for all the different crown management units. You said that you thought there'd be a lot of problems there, and now you just gave that example of Lanark versus Kenora, but wouldn't you want to manage the forest of Ontario based upon need? Also, in a better forest, wouldn't you get better natural regeneration anyway, as we're moving towards that? So that forest has a bit of that advantage anyway, if it's a better forest to begin with, and you might want to come back to some of the forests that don't have as good a soil base and other factors and try to help it, or maybe it was ignored in the past. Would there be anything wrong with trying to balance out a little bit some of the different crown management units?

Dr Duinker: No, I'm sympathetic to that argument. If you could find a way to do some of that and remove the possibility that a minister could be taking lobbying as to where silvicultural dollars go with respect to jobs and equity, all that sort, I suppose it would be reasonable to let that happen.

It turns out, though, that most of our forests, especially in northern Ontario but maybe even in the more southerly parts, are so big that you can find good growing sites and bad growing sites right within the same forest. We have forests of over one million hectares. We have some around the 20,000-30,000 mark too. But if it's over a million hectares, there are good sites and there are bad sites.

I would just as soon see the silvicultural money that got generated by good sites that were easy to regenerate used to subsidize regeneration inside the forest on the bad sites within that forest.

Mr Ramsay: So that would be good forestry practice.

Dr Duinker: Absolutely.

Mr Ramsay: What you're afraid of is the politicizing of forest regeneration.

Dr Duinker: Yes, indeed.

Mr Ramsay: Maybe you could have some sort of protection in the act, an amendment that would state that it would be based on prescriptions from the MNR foresters or consultants, depending on who's done the work on that, so that you put in some safeguard against the politicization of that.

Dr Duinker: Yes. I don't want to go too much further with this, because maybe I'm missing something that I haven't read into it that I should have or maybe there is a stack of regulations coming behind the trust funds that I'm not aware of. But I've raised the red flag.

Mr Brown: First, I should congratulate you for choosing Manitoulin as a place to vacation.

Dr Duinker: I used to live there, Mike.

Mr Brown: All right, okay. Pursuing the trust fund, my understanding of the trust fund—and maybe the ministry could help me if I'm wrong—is that there's been an arbitrary value placed against each particular forest or species of so much: \$6 or whatever in the case. But they were to encourage good forestry so that if you had good forest practices and it actually was only costing you \$3 to do that, the company then was rewarded through the trust fund mechanism for doing the most responsible job. Am I wrong? Could somebody tell me?

Interjection.

Mr Brown: No, I'm right.

Dr Duinker: Do you have an idea about how the reward works?

Mr Brown: I'm not sure how the reward works and maybe the ministry could help us. But the other point is the forestry futures fund which, I understand, is half the area charge, which is supposed to look after events like forest fire destruction or some kind of natural problem and to regenerate forests. It's occurred to me that the third element of the government's stumpage fee is a—I'm trying to think of the name of it, but it's based on what market price is.

Mr Bisson: Residual value.

Mr Brown: Residual value. That may be a very good mechanism to be putting into the forest futures fund. There are things, obviously, that happen in forests that no man has any control over. That money could then be spent productively in the forests of Ontario to improve the situation. Do you have any thoughts on that particular point?

Dr Duinker: I haven't given that one much thought, but two thoughts that came to mind are—at least one—that the fluctuations of the market and the fluctuations of the weather, wind throw, insects and disease may be out of sync sufficiently that the market side of stumpage may not put money in at the right time to be drawn out to do the renewal needed for these calamities.

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Mr Brown: I guess what I was suggesting is that the fund would build if you weren't using it, to a time where it may be appropriate, and that may be a time when the market is down. I look at this present economic circumstance we've been in. Certainly, although sawlogs have been pretty good, for a long time the pulp and paper

businesses had some pretty tough times, and it was in a good time, I think, to be doing some more reforestation rather than less. But the way the present dollars flow, that just hasn't happened. It's been a low priority with the government and it hasn't spent the money. As a northern MPP, I would have liked to have seen the jobs that could have been created in the forest during that time, and that mechanism might be the one to use. It's just a thought. I've been trying it out on various people.

Dr Duinker: It sounds not bad on first reflection, but I won't go any further until I can examine it.

The Vice-Chair: Again, thank you very much for coming before the committee, and not only for choosing this area as your holiday ground but for interrupting your holidays to appear before the committee.

Dr Duinker: My pleasure.

The Vice-Chair: We certainly appreciate that and we look forward to the continued cooperation between yourself, your faculty, the ministry and the Legislature. So thank you very much.

Dr Duinker: Thank you.

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The Vice-Chair: I understand that Mr Mainville has now arrived, if you'd like to take your seat please. Il y a la traduction simultanée si vous voulez vous exprimer en français. Il y a cette possibilité aussi.

Mr Roma Mainville: It doesn't matter to me one way or another.

The Vice-Chair: It's up to you, whichever way you wish to choose. You do have half an hour, and if you'd like to make the presentation first and then leave some time for questions and answers from the committee members, it would be appreciated.

Mr Mainville: I guess maybe you heard everything and this just may be a repeat. I was going to go to sections 16 and 17. Does that mean that we're not going to be needing foresters any longer? That's a question to section 16:

"The holder or former holder of a forest resource licence shall keep such records as are prescribed by the regulations.

"The minister may require the holder of a forest resource licence to conduct inventories, surveys, tests or studies in accordance with the Forest Information Manual."

Does that mean we don't require foresters in the bush any more?

The Vice-Chair: Perhaps if you want to put all your questions or whatever you have on the record, and then perhaps the parliamentary assistant might want to give you some answers.

Mr Mainville: I thought you wanted to deal with them one at a time.

The Vice-Chair: Not quite, no. We'd like to have your presentation first and then each party will either give some answers or make some comments or questions.

Mr Mainville: I just prepared that fast because I thought the meeting was on Thursday, so therefore this morning I just had to scratch up a few fast questions. It's

my mistake for not keeping up to—

The Vice-Chair: It happens to us too, so don't worry.

Mr Mainville: But anyway, the way I read that, the onus is going to be on the companies for the surveys, inventories, tests, studies of the forest, which in the past used to be the responsibilities of your local foresters. I figure that the way it's worded in there, the onus is on the operators from now on. Am I right?

The Vice-Chair: Perhaps with the permission of the committee, since it is the government's turn anyway, if we can have the parliamentary assistant try to answer some of these questions, probably with the help of the officials.

Mr Wood: Thank you very much for coming forward and answering these questions, but I'd ask Ken to come over and maybe clarify the questions that he's asked on sections 16 and 17. Ken Cleary is from the ministry.

Mr Ken Cleary: If I understand the question correctly—well, there were two questions that I heard. One was, will there still be foresters in the bush? The answer is most definitely yes. The answer to the second question, which was, what information will the licensees be required to provide: The requirement for that information will be set out in the Forest Information Manual.

The Vice-Chair: Do you want to continue, Mr Mainville?

Mr Mainville: That still doesn't tell me whether the foresters will be taken out of the ministry or the onus left on us. I guess your pamphlet, stuff like that, is not all completed, is not out yet, is it?

The Vice-Chair: Some of it, but not all of it. Mr Wood.

Mr Wood: In that particular question, I understand you're saying, is the Ministry of Natural Resources still going to be involved in forestry? If that's the question you're asking, yes, the ministry is still going to be involved, in cooperation with all the stakeholders and the companies out there. The Ministry of Natural Resources will still exist, with a budget, and be assisting to manage the operations, yes.

Mr Mainville: My next question is, "The minister may establish in writing a trust to be known in English as the forest renewal trust...." Just a little further on in there they indicate that they will probably have trustees. So then again it's other jobs that are going to be made up and they will more than likely eat the trust that's for the renewal of the forest. That's the usual practice of the government, to always appoint somebody and first thing you know there's nothing left for the reforestation anyway.

The Vice-Chair: As I say, normally you kind of finish your presentation, if you have some other points, because then that will give the parliamentary assistant an opportunity to respond to several points at a time.

Mr Mainville: My other point farther down the road was on 55 and 61. But on establishing those trust funds, it's just like what the present government did with your Outdoors Card. They borrowed money two years in advance and now they haven't got that money to spend in the ministry so therefore they're going to attack the

loggers, I guess, for more money in other ways. The way I see section 45, the forest trust fund, it'll just be a fat job for somebody. There's not going to be anything left for the reforestation anyway.

On section 55 and 61, in reference to the fines, I figure those fines are absurd. The way I see those \$15,000 fines that are set up in article 55, it will be, MPPs have been hinting that they've been underpaid, so I can figure that they're gunning for about a \$15,000-a-year raise, because those fines, I'm darn sure there's no small operators can afford that.

On section 61, it's the same. That's even more atrocious: \$100,000, \$100,000, a \$1-million fine. I guess you guys want the small operators to quit and get out of the way. Maybe the best thing to do is maybe all of us quit and go on welfare, have somebody else work and foot the bill.

Section 66, clause 66(4)(c), the operator is going to require minimum qualifications in order to be engaged in forest products. What is expected as minimum qualifications? A forestry engineer or what?

The Vice-Chair: He'll have time to respond a little bit later.

Mr Mainville: That's all I have to say.

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Mr Wood: On the trust accounts that you raised under section 45, in any trust accounts that are going to be there, how many there are going to be, there has to be somebody who is responsible for this. The trust funds are set up, accounts have been set up under the budget legislation that was introduced and had third reading in June. I don't believe that the companies that will be monitoring those and reporting to the Finance minister will be using up all the money in that. There will be money available for reforestation.

You just made a comment on the sportsmen's cards. The option was that you could buy it for one year, two years or three years and buy the licences at the same time, but there were options there over a period of—whatever they wanted to do.

You've raised, on 55, the fines, and also 61. The fines that are spelled out in Bill 171, some of those fines are there right now under the existing legislation, under the timber act, although 40 years later they've been amended to give a better value to the forests and the damage that might be done out there in the forests, and it relates to what is happening 40 years later from when the timber act was put into effect in 1952.

The \$1-million fine is something that—it could go up to \$1 million in the courts, but right now I understand under the existing legislation, a company could be shut down if it refuses an order and continuously does damage out in the bush, and rather than having the minister give a direct order that E.B. Eddy in Espanola must shut down their operation because they've damaged the bush to the point where it can't be replanted and harvested in future years, they can be charged through the courts and the courts will decide on the penalty and what it costs to repair the damage done. It's brought up to today's standard, which the feeling is that the \$1 million is not

that exaggerated for refusing a direct order to stop work where there's damage being done.

Section 66, maybe I could ask Ken Cleary if he wants to—

The Vice-Chair: Have you got an answer for that?

Interjection.

The Vice-Chair: Okay, if you want to give the answer, it's up to you.

Mr Bisson: I just wanted to come back to sections 16 and 17 and section 66. I'll start with 66, the last one. You raise under clause (4)(c) about the minimum qualifications for a person engaged in forest operations. What they're referring to there in that section is that the Forest Operations and Silviculture Manual may contain provisions. Let's say that you had a specific situation going on in an operation where for some reason a specific kind of work had to be done that has to be done in a certain kind of way because it's something—I don't know, you need a biologist to do a particular kind of a job or you need a forester to do a particular type of process in regard to doing the work that you're trying to get in.

It allows that you may for some reason want a biologist actually to go in and check something out or actually to do some work; it doesn't mean your interpretation, which is that you have to have a minimum qualification to be a forester to work in the forest. That's not what it means. It's only specifically to certain tasks as may be prescribed in the Forest Operations and Silviculture Manual. That's basically what they're getting at there. The operative word is "may"; it doesn't say "shall." Just in certain cases.

Getting back to sections 16 and 17, section 16 says, "The holder or former holder"—pardon me?

The Vice-Chair: You've got about a minute left.

Mr Bisson: About a minute? Okay, I'll just try to go very quickly. "The holder or former holder of a forest resource licence shall keep such records...." What that means to say is that if, let's say, you were E.B. Eddy and you had a forest management agreement as we know it today, you have to keep the records of the work that you've done in the bush and all of the things that you've learned so that we can all sort of share in that knowledge. That's basically what the intent is.

But if you're a small operator and you decide that you're going to get a licence under section 24 of the act, which is like the DCLs of today, and you enter into an agreement with the ministry to do the forest management plan for you, in that case the ministry would have to keep those records, not you. So basically all it is so that we have that information available to us so that we can all learn how to do our jobs better within the forestry industry. That's basically all they speak to.

In section 17, "The minister may require the holder of a forest resource licence to conduct inventories, surveys, tests" etc: Again the operative word is "may," and it is in a case where for some particular reason—we heard this morning about the situation with the spruce budworm. There may be some reason why we need to do particular studies about something that may be happening in the forest at a particular time. It gives the ability—and again,

the operative word is "may"—that the ministry, through the minister, can order particular surveys to be done if they're needed, but it's not a matter of course. Hope that explains it.

The Vice-Chair: Okay. Did you want to react to that?

Mr Mainville: No, we'll have to wait and see when everything's all completed.

The Vice-Chair: Good point, yes. Mr Ramsay, for the Liberal Party.

Mr Ramsay: I'd like to pursue this and maybe get Mr Cleary to answer this, because I understand why Mr Mainville might be a bit concerned about this when he refers to clause 66(4)(c), "minimum qualifications for persons engaged in forest operations." I wouldn't mind hearing your interpretation of that, because I would sort of read that the same way. It doesn't talk about any specialty types of jobs but minimum qualifications for persons engaged in forestry operations. I'd like to get your opinion, Mr Cleary.

The Vice-Chair: Through the parliamentary assistant, I guess, with the agreement of Mr Mainville, because it's your time.

Mr Mainville: It doesn't specify who has to be qualified; it just says "persons" have to be qualified.

The Vice-Chair: Mr Cleary, did you want to comment?

Mr Cleary: As we contemplate it now, there is only one type of worker that we are anticipating would be certified for the time being, and those are tree markers. Certainly, Mr Bisson's comments were in line with that, but as I understand it now, tree markers are the only workers we would be certifying.

Mr Ramsay: That's at this time, but the possibility could be there for the future that you start to certify other workers in the forest operations.

Mr Cleary: That's a possibility. If you look at other provinces, BC, for instance, I believe certifies its tree planters. So yes, that is a possibility.

Mr Hodgson: Thank you very much for coming in. I enjoyed your comments. We've had similar concerns about the financial viability of this act on small operators and people who don't get to go to public meetings during the daytime because they're out working, and if you form citizens' groups, they're working long hours and they don't have their input.

When it comes to implementing this plan and these manuals, I share the same concern that somebody's got to pay for it, and whether you enter into an agreement where you pay the ministry to do the work or—ultimately it's going to fall back on the competitiveness of your business. Somebody's going to have to pay for it. If you don't have the expertise to do it, either you're going to have to hire the ministry to do it or hire somebody else.

1420

There's two types of licences. I understand what Mr Bisson's saying, but it's a slippery slope from here to get to the point where—I feel there's a legitimate role here, that the government sets the standards and the industry does the work, and it's audited and it's enforced by the

ministry, the enforcement. But your concern about the forester leaving the forest and doing it like they do now I think is legitimate; that's the way we're heading for in the future.

Mr Mainville: This has been going into a downslide for the last couple of years, because you don't hardly ever see a guy in the bush any more. And if something goes wrong, well, then, we're the ones that get nailed to the wall for it.

Mr Hodgson: Right, and on some of the smaller crown areas, it's not financially viable for the MNR to send a person out and do the actual work. They can't get the return, and yet that would create jobs for independents and local people in small businesses.

Mr Mainville: Yeah, they don't have to be there every day; just once in a while just to more or less line us up. That would be a great help, but the way I see it there now, they won't even be involved; just collect the dues and that's all. Probably if they get a chance, they'll nail you with a fine: all the better for them. Your foresters will become police and executioners.

Mr Hodgson: And judges onsite.

Mr Mainville: More or less.

Mr Hodgson: With a fine. But I appreciate your comments. We'll be looking at this in detail. Hopefully we'll get into more detail on it.

The Vice-Chair: Thank you again for appearing before the committee. Your presence is much appreciated.

Mr Brown: Mr Chair, there's been quite a bit of discussion today about community advisory committees, and we've also heard from E.B. Eddy about how theirs operates. We do have one gentleman who would be willing to talk a little bit about that committee and how it works here in Espanola, if the committee would be willing to hear him. His name is Ronald Garnett.

The Vice-Chair: We have a bit of time left. Is it agreeable with you? Fifteen minutes?

Mr Bisson: Ten.

Mr Brown: Ten or 15.

The Vice-Chair: Ten or 15 minutes? Agreeable? Won't be too long.

RONALD GARNETT

Mr Ronald Garnett: Chairman, ladies and gentlemen, I do appreciate this. I had no intention, actually, of speaking. Rather, I came here to listen today.

I'm very interested and quite concerned about the citizens' advisory committees that will be formed or are being formed at the moment. I'd like to point out that I've been on the forestry advisory committee with Eddy's. Now we're starting our third year and, boy, we have learned a lot. I'd like to just let you all know that in no way do they pay me. I don't even come from Espanola, so I've got no direct interest, you know, in the immediate community. I'm from Sudbury and I volunteered for this position. We meet on a very regular basis, once a month at least, and we have two or three field trips during the year as well.

During my time with the forestry advisory committee, I've learned so much about the forests. Our first field

trip—and Derek, you may be interested in this—I was aghast at all these, you know, the scarification, the logs all over the place, and I thought, “My God, what are they doing to this wonderful country of Canada?” It’s only going on these field trips and listening to our guest lecturers from MNR, foresters coming from other areas, ministry as well, that you start learning about what it’s all about. As I say, we’re going into the third year and I’m learning; just learning. I haven’t learned. Also on the team we have biologists: Keith Winterhalton, he’s the one that practically regreened the area around the Inco-Falconbridge mining sites. You guys that were here before, you may have seen the moonscape. If you look at it again today, it is different. People like this are on the team. We have prospectors. We have trappers, canoeists. We’ve got a gentleman who is an engineer on water tables. He’s been with us as well.

What we’re actually doing, once again not working for E.B. Eddy, is we’re watching. We’re like a watchdog team. But at the same time they’re putting a lot of good people at our disposal to teach us what’s going on. We’re a completely diversified group. We’ll argue with each other. I don’t think anybody would want us as children—if a parent would want us as children in any way whatsoever. Chaotic. But we’re learning.

Now, back to that first trip, all the logs and everything; I thought, oh my God, what’s happening here? Since then we’ve learned that the forest needs these trees on the floor for the next generation to feed on. If you give an area like that two or three years, four years, five years to start regenerating, which they do, you start thinking, oh this is nice and fresh; this is new; something’s happening here.

I’m leading up to something, so give me a couple more minutes.

Then I find that Eddy is leaving nice stretches for the moose paths. That’s part of our moose guideline planning. We’re discussing all these things.

As I say, we’re becoming quite expert in our own little way. And then the notice comes that they’re going to be forming citizens’ advisory committees and I think, here I’m on an apprenticeship course, going into my third year and still learning; what’s going to happen to these new groups that are going to be brought in; you know, the citizen advisory groups? Who’s going to teach them before they’re in a position to start advising? Please think about this when you start forming these groups.

Are they going to have a generous company like E.B. Eddy—which doesn’t pay me, by the way. Are they going to have somebody like this that’s going to teach them before they can start helping people to make decisions? And really, that’s what my cry is all about here. I am just a volunteer, but I can see this thing getting out of hand if the proper approach isn’t made.

The Vice-Chair: Thank you. We do have room perhaps for one question each caucus.

Mr Brown: The composition: How many members are on this committee and what interests might they represent, Ron?

Mr Garnett: Thank you for that one as well. There

are approximately 25 of us and I should think on average 18 turn up at each meeting. One thing I want to get across is the fact we have two aboriginal people on there as well stating their views: one from the Wikwemikong tribe—Michael; he’s behind me at the moment—another one from Massey.

I noticed actually in the talks this morning the aboriginal side of things did not come up at all, and we are looking at some very, very experienced foresters as well among these people. So that’s got to be taken into consideration where we operate. The meetings are exceptional for the different types of people we get there.

Mr Hodgson: I share a lot of the same concerns I brought up this morning. Are you suggesting some type of apprenticeship program as part of the criteria for being on these advisory boards when they’re set up?

Mr Garnett: Well, I’m only a public at large. I know it’s the largest group that you guys look after, actually, or are responsible for. For me, this is the first opportunity I’ve had seeing Canadian forest, and what I’m saying is, going into our third year, I still need a lot of training but I feel as though I’ve got a damn sight more training than anybody else has got. So, yes, I think if you follow the same type of plan that Eddy’s promoting, I don’t think you could go far wrong. I feel, then, very comfortable that these citizen advisory committees would be—you know, taking them from all the various areas. Like I say, we’ve got canoeists, we’ve got every type of person across the board who uses the forest putting their input into it.

Mr Fletcher: I agree with everything you’ve said. I think that’s the way it should work. When you have a company that is doing something in the forest, it should make sure that people know what to look for and what they’re seeing. I had a chat with a fellow this morning—I don’t believe he’s here any more—and we were talking about this. As I was saying yesterday in the Sault, forest fires are good for forests. When trees rot, it’s regenerating. I agree with that. I think that’s the way it should go.

Unfortunately, not every company is like the Eddy company. But I’m not saying that every company is bad. It’s just that they take a different approach sometimes. You’re right, perhaps this is a good plan, this is the way it should go, and perhaps this is what the ministry should look at it when it is developing, the way that this has been working. Wholeheartedly, I agree. I think that’s exactly what should happen.

I’ve swallowed some of my beliefs, and that’s one of the reasons I’m on this committee. I asked to be on this one just to hear what was going on because my beliefs were not the same as everyone else’s. But I think, again, as a preservationist or a conservationist, whatever you want to call it, I think there has to be some meeting of the minds. As the presenter before us said, the preservationists and the companies were getting together and finding common ground. I think that’s exactly what has to happen. There has to be that common ground where we can all work together for the benefit of what we have and to make sure that we have it.

I congratulate the Eddy company for what it has been doing on its own initiative. Not everyone is like the Eddy

company. But I do agree that's the best approach to take, and I think it's admirable. Thank you for enlightening me.

Mr Garnett: Could I respond? Thank you. I presume you were joking this morning when you said you came up here and you don't want to see trees cut.

Mr Fletcher: No, I wasn't.

Mr Garnett: Oh, well, I'll still answer you, then.

Going back to my first opening remarks about all these dead trees lying all over the place, you know, the garbage, shall we say, that's left after the harvesting, on this committee we don't go to the places where Eddys tell us to go. We ask them: "Let's look at this. Let's look at that." Some of the guys, hunters in the bush, trappers—I've told you—everybody else who's in there, they say, "I'd like to go to such-and-such an area," and we go. It may not be the most pristine, as aesthetically good-looking as some, but we go, and they allow us to do that.

Now, we also asked to see an old forest; old was 80, 90 years, about 90 years of age. That forest was terrible aesthetically, I think healthwise, safetywise. So we have to cut the trees. That's my feeling.

Mr Bisson: Or they'll burn.

Mr Garnett: They don't all burn. You can't set fire to everything. Some do, yes, but you don't want forest fires.

Mr Fletcher: Five hundred years ago we didn't have—and again, my point was, the reason we fight forest fires today and the reason that we have forest management is because of the economy that we have and the economy—

The Vice-Chair: I don't think—

Mr Fletcher: —that the forest people are in. Five

hundred, 600, 700, 800 years ago we didn't have that economy around.

Mr Mammoliti: A little more aggressive, Chair, please.

The Vice-Chair: It's been going all right so far.

Mr Fletcher: I don't disagree with you. A lot of the forests can take care of themselves. But because of what we're doing, because we have moved into the forests, we do have to manage them. I agree with you wholeheartedly.

Interjection.

Mr Fletcher: When you clean them up, then I think—

The Vice-Chair: Thank you, Mr Fletcher.

See what you started when you responded? I'll let you two continue afterwards.

Mr Garnett: Can I just have one quick one?

The Vice-Chair: I'm sorry, Mr Bisson also had asked for some and I told him no.

Mr Garnett: That's okay.

The Vice-Chair: Thank you very much. We do appreciate you coming before us and sharing your experience.

Interjection: And thanks for the posters.

The Vice-Chair: And thank you, to E.B. Eddy, for the posters, yes. We did receive 25 posters. The clerk will take them to Toronto and you'll get them in your offices, because I think it will be a little bit easier to transport from there.

The committee stands adjourned until tomorrow morning at 9 o'clock.

The committee adjourned at 1435.

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**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South/-Sud ND) for Mr Wessenger

Carr, Gary (Oakville South/-Sud PC) for Mr Arnott

Fletcher, Derek (Guelph ND) for Mr White

Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson

Jamison, Norm (Norfolk ND) for Mr Mills

Miclash, Frank (Kenora L) for Mr Sorbara

Ramsay, David (Timiskaming L) for Mr Grandmaître

Wood, Len (Cochrane North/-Nord ND) for Mr Morrow

Also taking part / Autres participants et participantes:

Ministry of Natural Resources:

Cleary, Ken, manager, program development, renewable resources

Wood, Len, parliamentary assistant to the minister

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Luski, Lorraine, research officer, Legislative Research Service

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Troisième session, 35^e législature

Official Report of Debates (Hansard)

Wednesday 17 August 1994

Journal des débats (Hansard)

Mercredi 17 août 1994

**Standing committee on
general government**

**Comité permanent des
affaires gouvernementales**

Crown Forest
Sustainability Act, 1994

Loi de 1994 sur la durabilité
des forêts de la Couronne

Chair: Michael A. Brown
Clerk: Franco Carrozza

Président : Michael A. Brown
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 17 August 1994

Mercredi 17 août 1994

The committee met at 0903 in the Pinewood Park Inn, North Bay.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Vice-Chair (Mr Hans Daigeler): It being past 9 o'clock, I call the meeting of the standing committee on general government to order. We're here to continue the public hearings on Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario.

NORTHERN ONTARIO
TOURIST OUTFITTERS ASSOCIATION

The Vice-Chair: The first presenter this morning, from the Northern Ontario Tourist Outfitters Association, is Mr Antler. You have half an hour. You can take the time as you wish. However, we usually like some time for questions and answers at the end, perhaps 10 minutes, something like that. Please go right ahead.

Mr Jim Antler: I'm expecting my remarks to last approximately 15 minutes.

Mr Chairman, committee members and other distinguished guests, before I make my remarks on the bill today, I'd just like to preface my comments with a little bit of background on the association that I represent.

The Northern Ontario Tourist Outfitters Association, or NOTO for short, is a non-profit trade and advocacy association that represents the interests of what we call the resource-based tourism industry in northern Ontario. This industry comprises primarily fishing and/or hunting resorts and lodges, housekeeping cottage resorts, air services, outpost camps, canoe outfitters, campgrounds and trailer parks. Currently, this sector of the tourism industry numbers approximately 1,600 businesses in northern Ontario and generates approximately \$400 million in direct and indirect revenues. Since the formation of NOTO in 1929, it has served as the respected voice of this industry on issues ranging from all forms of natural resource management to business issues, taxation and marketing.

Our interest in Bill 171 stems from a long interest in the management of Ontario's forests and its natural resources and how management activities in the forest can impact on the viability of tourism operations. Most

recently, our interest has been demonstrated through our participation as a full-time party to the timber class environmental assessment hearings and through our involvement in the many forest management initiatives and policy development exercises undertaken by and through the Ministry of Natural Resources in the past few years. This has included involvement in the work of the comprehensive Ontario Forest Policy Panel, the community forest initiative, the work of the old growth forest advisory committee and the development of a new business relationship with the forest industry in Ontario, which some people may know as the Carman exercise.

On June 1, the Honourable Howard Hampton, Minister of Natural Resources, introduced Bill 171 into the provincial Legislature for first reading. The introduction of this proposed legislation was seen as another step by the Ontario government and the ministry towards sustainable forest management in Ontario. It followed on the heels of a number of recent initiatives that I mentioned earlier that had been undertaken to address forestry issues in the province. In fact, many citizens of the province have been somewhat overwhelmed by the scope of these initiatives, to the point where I've heard some confusion begin to set in as far as where one initiative ends and the next one begins. Nevertheless, the bill is now before the citizens of the province to serve as the legal framework by which the crown will manage the forests of Ontario.

NOTO supports the need for new legislation to replace the existing Crown Timber Act, and believes Bill 171, in its current form, is a good step in that direction. We do have a number of concerns, however, regarding some of the wording of the bill and wish to suggest some improvements to the legislation for your consideration today. Our comments are organized in chronological fashion, following the articles contained within Bill 171.

Under part I of the act, we believe the very first section is deficient because it does not contain any definition of sustainability or enunciate any firm principles of sustainability that could be used or should be used to set the framework for the rest of the act.

We understand that since the act was introduced, there's been a fair bit of debate among the Ministry of Natural Resources, the forest industry, environmental groups and other users about the relative merits of defining "sustainability" within the act itself. We also understand that the ministry's current position is that a working definition and principles will be contained within the Forest Management Planning Manual, which is to accompany the act.

NOTO believes that although a definition within the

act would be preferable, it appears that there seems to be more consensus on the idea of specifying a number of principles of sustainability within the act itself. So, in keeping with this general direction, NOTO would suggest that the five principles of forest sustainability outlined by the comprehensive forest policy panel in its final Diversity report be incorporated into this article of the act.

We believe the principles must be contained within the act itself so that the average citizen of Ontario can pick up the act and understand the foundation upon which forest management will occur in the province. This may not occur if the principles are left buried, if you will, in a manual that may be of little interest to the general public.

With regard to part II of the act on "Management Planning and Information," clause 7(2)(a) refers to the relationship between forest management plans and the Forest Management Planning Manual in regard to the contents of what should be in a forest plan. This section is fairly comprehensive, although we might suggest an addition be made to this article to indicate that forest management plans within the plans will identify those silvicultural tools and approaches that will be used within the plan itself, along with a rationale outlining why they've been selected for use.

With regard to subsection 8(2), this article gives the minister power to approve a forest management plan if he is satisfied it provides for forest sustainability. NOTO doesn't take issue with the concept of the minister approving the plans that he is satisfied provides for sustainability. However, going back to the comments I made under section 1, without a framework in the act that outlines what is sustainable in some format, the act, as written, appears to give the minister powers based on his judgement of what is sustainable, not what is or what may be sustainable in a more scientific term.

0910

To us, this only reinforces the need for identifying those principles identified earlier within section 1 of the act. We also feel that by incorporating those directly in the act, the minister, as the agent of the crown, can be more clearly held accountable for his decisions by the public because the public will be able to see what is in fact in the act.

Section 14(1) relates to the preparation of work schedules as part of forest management planning. The current wording of the act notes that the minister "may" require preparation of work schedules. This is inconsistent with the timber class EA decision and specifically term and condition 72(a), which reads as follows: "An annual work schedule shall be prepared for each forest management unit before any operations may proceed." In addition, article 39(1) of the act itself states that forest operations cannot occur unless a work schedule has been approved by the minister. Therefore, it appears that the wording of article 14 is inconsistent when compared to article 39 and the EA decision.

Now, in talking with some officials in the Ministry of Natural Resources, they've pointed out that because the approval of the class EA document has only been granted for nine years, and they are expecting the act to be

enforced for a longer period of time, they've chosen the word "may" to build more flexibility into the act. They also add that EA term and condition 72(a) will be part of the Forest Management Planning Manual and thus will be binding on the crown anyway.

We can appreciate the ministry's position. However, the perception that is still left in the act is that work schedules may not be required in all cases in forest management planning, and we feel that should be corrected through using the word "shall," as I mentioned earlier. Possible wording in this section may read, "The minister shall require the holder of a forest resource licence to prepare a work schedule for the licensee's forest operations in a management unit."

Subsection 14(3) relates to the approval, rejection or modification of a work schedule by the minister. We might suggest this article be rewritten in order to link it more closely with the concept of sustainability and the principles of sustainability in some fashion. Some possible wording we might suggest as replacement here would be, "The minister may reject the annual work schedule or approve it with modifications which may be made by the minister to result in sustainability of the forest operations in the management unit."

With regard to part III under "Forest Resource Licences," subsection 27(3) provides the minister with the power to exempt "the condition"—I believe in (1)—"that all trees harvested shall be manufactured in Canada into lumber, pulp or other products." The article, however, doesn't specify any criteria on which this decision is to be based, and we feel the act or the manuals should state some sort of decision-making criteria to be followed by the minister so that his decisions can be held up to public accountability.

Subsection 31(1) deals with the amendment of forest resource licences and notes that the minister may do that in accordance with the act's regulations. In addition, section 67 of the act outlines the various subjects on which regulations may be developed under the act, and in particular subsection 9 broadly deals with amendments to forest licences. However, the ministry has recently proposed some regulations under this subarticle, which we have a copy of, and it doesn't address the issue of perhaps the minister being able to amend the amount of wood allocation or flow to a company during the term of a plan or during a forest management agreement.

We would suggest that perhaps this article needs to be reinvestigated and perhaps rewritten to allow that kind of amendment to take place in case there are other economic, environmental or social objectives that the crown needs to be met or that should be met by the crown in the interim.

An example of what I refer to here: In the past, our association, and I believe also in the document produced by the forest policy panel, suggested that perhaps the crown should provide tourism operators—I think they referred to it more in the terms of remote tourism—with a resource licence area, similar to what forest companies now have, around lakes that support tourism businesses, in an effort to better protect tourism values from forestry and access impacts. As many of you may know, there's

quite a long history of forestry-remote tourism conflicts in the province, and this was identified as a potential solution to help resolve that issue.

Should this kind of arrangement be implemented in the future by the crown, or in some sort of negotiations that may be taking place it be determined that greater reserves may be needed to protect those tourism interests and those industry interests, we're concerned that the wording in this section may not allow the crown to change the allocation of the company to allow that sort of protection to take place. Someone has said perhaps the companies might even be able to argue that the government is not legally bound to change their licence anyway under the act, so those kinds of initiatives may not be able to take place.

We would propose some wording to address it in this fashion: "The minister may amend the forest resource licence to allow for the establishment of areas where timber harvest may not necessarily be permitted to provide for the fulfilment of other societal values in accordance with the regulations."

Subsection 32(4) puts a cap on the amount of wood that the minister could withhold from a licensee at 5% "if the licence is transferred, assigned...or...disposed of in accordance with subsection (1)." Recalling the discussion above relating to the possibility of tourism operators perhaps being granted a licence, NOTO's concerned that a 5% withdrawal might not be sufficient to protect those interests depending upon the extent of the tourism interests in that area.

Therefore, we might like to see a little bit more flexibility here in the amount that may be withdrawn to ensure that, again, other values may be able to be protected. In our case, we'd be interested in tourism. Right now, we don't happen to have a figure that we can pull out of our hats to say 10% might be the one, because it often depends upon the extent of the businesses in the area. You may have congregations of tourism operations, for example, in some areas and that amount of land base may shift.

Under part V, "Trust Funds," subsections 45(5) and 48(8), dealing with both the forest renewal trust and the forestry futures trust: These subsections in particular relate to how the financial affairs of each of those trusts will be reported. We feel that for the purposes of accountability to the public, we would suggest that the annual reports that I believe are supposed to be made to the Minister of Natural Resources and I believe to the chairman of the treasury board should also be provided to the Ontario Legislature as a whole and be available to the public so that the public can have some accountability as to where those dollars are being spent.

In part VII, under "Remedies and Enforcement" I want to touch particularly on sections 55 and 61. These sections outline various penalties and fines for contravening different articles within the act itself.

We understand that it's the intention of the Ministry of Natural Resources to try and levy administrative penalties first under section 55, when infractions occur, to avoid the court process, but we also understand that section 61 gives the ministry the authority to lay charges where

necessary when infractions occur or when penalties under section 55 are complied with.

With regard to section 55 itself and the nature of the fines in there, we might argue that in some cases the fines may not be sufficient, and I'd like to point out a particular example, from a remote tourism perspective. If operations, for example harvesting or even road building, happen to occur in an area that's designated as a no-cut buffer zone around these lakes, many times in the past where this has occurred it's created access to these remote lakes that were previously inaccessible.

The remote tourism industry is sort of a specialized one in the province. It relies on remoteness; it relies on a real wilderness environment of our quality resource base. There have been, in the past, many examples in the province where access has been made to remote lakes by extensive timber harvesting in the areas of those operations. It has caused some real problems and in fact in some cases has caused operators to have to close down an outpost site because it can no longer be sold to his guests. So we're concerned that if actions occur in that kind of area and access is created to the lake, a fine of \$15,000 or five times the crown dues may not make up for the possible loss of revenue to that particular business.

0920

When access occurs to these remote lakes, the result is usually that you have increased fishing pressure on those lakes as increased access occurs. The aesthetic problems that may occur from extensive clear-cutting in those areas damage the business, and in many cases the operators are faced with an inability to sell their product to people who are seeking out those remote wilderness-style vacations and who are prepared to pay for those kinds of tourism opportunities. As I said, this often manifests itself in terms of loss of revenues or in fact business closures.

We recognize that the fines are payable to the crown, but we have also, throughout the various involvement we've had in different forest management activities, been concerned that compensation to affected parties, when perhaps illegal activities take place, has not been made available. It's not a policy of the ministry, so compensation, the way the act is prepared now, remains a nonentity for any affected parties, whether it be tourism or another party out there, trap lines that may be harvested; there are a number of examples of things like that. We would like to see the act in some fashion try to deal with that concept of compensation to affected parties, whoever they may be, when actions take place that contravene the act.

With regard to subsection 61(2) in particular, we would suggest that somewhere, either in the act or the manuals, perhaps some clarification—guidelines, criteria, whatever you may call them—be outlined that might explain more clearly under what circumstances infractions will be levied under article 55 or under article 61 because, as I understand it, there's a power to levy fines under both but it's not really clear in what kinds of examples it will be done in one way or the other. I think that may help.

With regard to subsections 66(2) through (5), NOTO would propose that the word "may" should be changed to "shall" in all cases to ensure that each of the forest

manuals that are proposed contains necessary provisions regarding the information that's required for planning and operations purposes.

Other articles in the act require forest management plans, operations, work schedules to be prepared in accordance with the manuals. In particular, I could refer to subsections 7(2), 13(1), 14(2), section 40 and subsection 42(3). Our feeling is that the use of the word "shall" within article 66 will ensure that if plans have to be prepared in accordance with the manuals, then the manuals must provide the necessary background information for the planning process.

The last article I have comments on relates to section 67. That outlines the various types of regulations that the crown may enact under the act to deal with various different things. One in particular that we'd like to highlight relates to number 28, and that deals with forest audits. We think the requirement to perform those audits should be entrenched more firmly in the act itself to ensure accurate reports on forest operations are done and that the actions taken in the forest are in fact what was approved to be undertaken.

Before my concluding remarks, I'd just like to address something. I don't happen to have a transcript on, I believe, the Sault Ste Marie hearing, but I'd heard through the media that you had heard from a representative of the forest industry in the Sault comments to the effect that tourism operators should have to pay for the use of crown lands in the forest. I don't want to let that slip by, because I feel the committee needs to know that there are many cases in which this industry does pay for the use of crown land. People who have licences for outpost camps, for example, land use permits, do have to pay a fee for that. People who operate bear hunts in the province have to have a commercial bear management area, on which they do pay a charge to the crown to rent that land. The issue of the water lot lease is another one that some of you may be familiar with. What's happening is that the crown is levying a fee for a permit essentially to rent the water or the land under the water that your dock sits on.

So those are three examples of where we do pay fees to the crown. We've even argued with the government, on the water lot lease issue, that if you look at the area charge that is paid by the forest industry of \$102, I believe, per square kilometre, many operators in Ontario pay a minimum of \$125 for a water lot, on an annual basis, which is far less than a square kilometre; it may in fact be a few hundred or a couple thousand square feet. So the relative amount that is paid between those two industries, we've always said if you want to charge us for our docks based on \$102 per square kilometre, we wouldn't mind. It would work out to about 10 cents a dock.

So those were examples of the three things in particular that I wanted to speak on. In fact, referring to the issue I talked about earlier regarding perhaps granting licence areas to tourism operations, within the Ontario Forest Policy Panel they do suggest that if that would take place, the tourism industry should compensate the crown in some form for either a loss of an area charge or,

if the crown was expecting some revenue from timber activities on that site, that the crown deserves to be compensated, and other rights and responsibilities should be transferred as well. We don't necessarily argue that.

I have talked personally to a few operators in the province about such a concept. A number of them are very intrigued by it and would be willing, I think, to compensate the crown in some fashion for that use. The details of that could be worked out as the licence is granted. But I wanted to make sure that the committee understood that we do pay for the use of crown lands and that we are prepared to pay for the use of crown lands.

Just to conclude my presentation, the past few years have witnessed increasing interest among the citizens of Ontario regarding the manner in which crown forests are managed. The government has clearly heard this message, that people want more comprehensive forest management, not just timber management, to ensure other users of the forest and crown lands receive equal consideration in the planning process. The public has also been a strong proponent of sustainable forest management and has called on governments of the day all over the world to meet the challenges that this entails head-on.

We see Bill 171 as an attempt by the current provincial government to address these issues in a legislative framework, and we do welcome the new legislation to replace the current act. But as I've indicated, we feel that there are a number of areas where we think the bill could be improved and have attempted to outline those for you today. Our hope is that this committee, through its deliberations, will give serious consideration to our proposals, along with all others who make submissions to you, with an eye towards making sure that the bill that goes before the House for third reading reflects the needs of all forest users in the province.

I thank you for your time and patience today and I'd be prepared to answer any questions you might have regarding my presentation.

The Vice-Chair: Thank you very much. Unfortunately, your time has almost run out. Nevertheless, since we did start a little bit late, I will allow one quick question per caucus.

Mr Chris Hodgson (Victoria-Haliburton): I'd like to thank you for coming in this morning. I enjoyed your presentation. If you've got 1,600 members who basically use the crown land, I've been involved—I know quite a few of the people. You mentioned the bear management areas, the licence for outposts and this dock thing. What has stopped members of your organization from trying to receive compensation for damaged areas?

Mr Antler: We have in many forms. That was part of our case. I presume you're talking about the forestry impacts and that sort of thing?

Mr Hodgson: Yes.

Mr Antler: Yes. Throughout the class EA hearings that was one of the key things that we tried to argue for before the board, the issue of compensation. We've tried through that, we've tried through general advocacy means to impress upon the government and the ministry that a lot of these businesses are very unique and rely, especial-

ly remote businesses, on a certain kind of environment or atmosphere, if you will. We've tried in a number of areas and so far it's been unsuccessful and that's why we bring it up again today, under the act, for your consideration. We feel there's a real need out there and we've had many people put out of business, losing sites, and the viability of their operation is threatened.

0930

Mr Len Wood (Cochrane North): Thank you for your excellent presentation. You've covered a lot of areas, a lot of points that we're going to be able to work with during clause-by-clause.

There is one brief question that I want to see if you want to give a comment on. I know you've talked about the lakes and the docks that the remote tourist industry is paying charges on. My concern and the concern of some of the forest industry is: What happens with the area of land around those lakes where accessibility to the lakes might cover a large area? What would be the feeling on area charges? This was raised in the Sault, that the sawmills, paper mills, pulp mills pay the area charges and the remote tourist industry and the tourist industry in general should be paying area charges on this land that is being reserved around those lakes.

Mr Antler: You're talking about under the existing guidelines now, for example, the tourism guidelines. The crown itself has mandated that around water bodies, to protect the environments of those water bodies, reserves of a certain size should be left as part of forest operations. The sense of our industry is, because there are more than just tourism issues there—there's the idea to protect, perhaps, spawning beds or other environments that are around that lake—the way things stand now, we don't necessarily feel that area charges should be paid, because the operators really have very little control over that area; the licence area is still under the forest company, even though it is a reserve.

What we've said is that if those reserve areas are going to be expanded and if the crown is looking at perhaps granting tourism licences, yes, beyond those areas, if it's felt that bigger reserves are needed, of course, the area charges could certainly be paid by the industry. In that case, when you do have a licence, then, with the rights and responsibilities, the tourism industry could say, "Now we actually may have a licence on that area that provides us with some control"—"control" is a bad word—"some jurisdiction over that land base," and that's where they feel that the payment should come in.

They've also said that doesn't mean that harvesting may not be allowed in those areas. There may be a sense that some selective logging could occur in certain areas, in certain locations on a lake, depending upon where the lodge is situated. There may be larger reserve areas needed in some parts of the lake rather than others that could allow harvesting to take place, but currently we don't have the opportunity to exercise any sort of authority over that land base and say, "This is where we would like the harvesting to take place because we feel we can work within it." The companies have the licences right now and that's what makes it difficult for our industry.

Mr Michael A. Brown (Algoma-Manitoulin): Thank

you for coming today. Over time, I of course have discussed a lot of these issues with your president, Mr Dickson, and with Mr Grayston. You noted in many cases, and we are particularly happy that you have, specific sections of the bill which you think could be improved as we go through it. You noted particularly, and I think it would be fair to say a lot of your concern revolved around, the permissive nature of the legislation. In other words, it was saying "may" rather than "shall." There's a tremendous amount of discretion that's being left to the Minister of Natural Resources. We have also been concerned about that.

My question really relates to—and in front of me I have the manuals and the regulations—how long have you had to look at the draft manuals and regulations, and has your membership been able to vet them so that you feel comfortable that you, in this morning's presentation, have been able to take them into account?

Mr Antler: From a staff perspective, we've received copies of the act later than we had hoped.

Mr Brown: The act?

Mr Antler: The act itself. We were supposed to be sent some copies and that was delayed, but we still had them in time. We attended a workshop that the ministry held on the act and received the first cut of the manuals back in mid-July. The second draft of the manuals just arrived in our office late last week and, to be honest, I haven't had a chance to go through them yet, so that's why my comments focused on the act. My understanding was, in talking with ministry officials, that your role or your mandate was to deal with the act itself, that the manuals would be developed in accordance with that, but I was unclear as far as whether or not the committee's mandate stemmed into what should be in the manuals themselves. That's why the comments relate to the act.

I have circulated some of my comments around to some of our members to help them have a framework which they can use. I believe some of them are going to be making presentations to the committee, especially some in the northwestern part of the province, and we've also had some correspondence from some other associations in the province on the bill and the manuals. So there has been some sharing of information.

I feel fairly confident that the comments I've made would probably be fairly reflective of the membership. My sense is, based on the time of the year that the hearings are taking place, many of our members may have seen the bill but won't have had time to go through it to the extent that I have had as a staff person, and that's just a matter of timing based on how busy people are at this time.

The Vice-Chair: Thank you very much. That will conclude your presentation. We appreciate your appearing before the committee.

Mr Antler: I will be submitting written comments as well.

The Vice-Chair: Yes, if you could leave that with the clerk, please, he will distribute that to the committee.

Mr Antler: They will be submitted at a later date.

The Vice-Chair: That's okay.

NORTHWATCH

The Vice-Chair: The next presenter is Northwatch, and on behalf of Northwatch, Brennain Lloyd. Welcome. You have half an hour, and if you'd leave some time for questions and answers it would be appreciated. We went a little bit over the time in the first presentation, but that's okay.

Ms Brennain Lloyd: Okay, thank you. My name is Brennain Lloyd and I work with Northwatch. Northwatch is a coalition of community-based environmental groups across northeastern Ontario. We work on regional issues from a regional perspective. We work primarily in the area of forest, energy, waste management and water quality, although we do work on issues related to mining, land use planning and broader environmental legislation in addition to those four areas.

Today I'm going to just walk through the act and provide my comments verbally to you. I apologize for not having a brief prepared to provide you at this time. I do undertake to have that written brief prepared before you go into clause-by-clause review of the act. I had delayed preparing my brief, thinking that I would have the manuals on hand and I could do one brief that addressed both the manuals and the act. But I didn't receive the manuals until Monday and it just wasn't reasonable, this week, for me to be able to do that kind of work in a day and a half. So with your patience, I'll just walk through the act and provide my comments as we go.

I think, in summary, the best thing about this act is its name. It's the Crown Forest Sustainability Act, and that's full of promise and potential and real cause for excitement. Unfortunately, the worst thing about the act is that it doesn't live up to its name. A lot of the comments I'll make today are about that. As we read the act and as I talk about the act, that's really the theme that runs through it: Where is the sustainability? How do we build sustainability into this act in a way that gives us some certainty, that avoids future confusion and gives us cause for confidence that the forests are going to be managed in a sustainable way across the province and over time?

0940

The first place that we see an opportunity to remedy that lack of sustainability in the act is obviously in the "purposes" section. My understanding is that the "purposes" section of a piece of legislation is to lay out and to give real clarity and enunciation to why we have this bill: Why do we develop this legislation? How are we going to use it? So the "purposes" section of a bill should really capture what the bill is going to do and give it some very purposeful direction.

As written, the "purposes" section doesn't do that and in fact is as vague and as weak as to allow the bill to be interpreted to give direction in any number of other ways. I think what we need to do in that section is to give it some body, some definition, and I would suggest that the way we do that is to use some of the policy that's already been developed in this province and that has already been endorsed by cabinet and certainly had considerable participation and voice from the public, and that's the comprehensive forest policy, which was released as a cabinet document, and certainly the Ontario Forest Policy

Panel had extensive discussions around the province.

So I think the "purposes" section 1 needs to be rewritten with an insert and some additions so it would read:

"The purposes of this act are to provide for the sustainability of crown forests and, in accordance with that objective," and we insert here, "to ensure the long-term health of our forest ecosystems for the benefit of the local and global environments," returning to the original wording of the bill, "to manage crown forests to meet social, economic and environmental needs of present and future generations"—"by managing"—then we insert the principles from the forest policy, which were:

"(1) To ensure that current...biological diversity of forests is not significantly changed and where necessary and practical, is restored;

"(2) To establish and maintain representative protected forest lands as part of Ontario's natural heritage;

"(3) To manage the forests of Ontario to conserve and enhance the quality of water, air and soil."

Now, we trust that the purpose of this act is to legislate the forest policy. That's what we've been told and we accept that in confidence, and so practically, reasonably, logically, we embody that forest policy in the purposes of the act by doing as I've just outlined.

I think the next area that we need to give address is section 2, still under "General," and that's "definitions." I think we need a couple of amendments and some additions to this section. One is to amend "forest ecosystem" to read "'forest ecosystems' are ecosystems dominated by plants called trees and also including shrubs, herbs, mammals, birds, microscopic creatures, soil, air, water and other components of nature."

Again, this is relying on the work of the forest policy panel. We don't need to reinvent the wheel. They did their job and they did a very good job and we should be relying on that now and embodying their work in this act.

The next is that I think we need to insert a definition of "sustainability" here in the "definitions" section, and again I'd suggest we rely on the forest policy panel's work. They defined "forest sustainability" as meaning "both keeping forest ecosystems as forests, and keeping them in good condition," ensuring the long-term health and diversity of the forest.

I think the other problem that we have in the "definitions" section is that "forest resource," which you would find on page 4 of the bill, is defined solely in terms of trees, and if this act is about the forests, then "forest resource" should be defined in terms of all of the resources of the forest, which are not simply trees.

If this act is only going to address timber resources, then it should simply read "'timber resource' means trees in the forest ecosystem," because "timber resource" in fact does mean trees, although the timber resource is not the full definition; it's not the full function of trees. But certainly "forest resource" does not mean just trees in a forest ecosystem and any other type of plant life prescribed by the regulations that is in a forest ecosystem. But really the message we get from that is that the forest resource is about timber, timber is about trees, so this act

must be about timber and trees. I think that's not what we're looking for and I don't think that's what's intended. We accept that the bill is open to change and so we make the comments in a cooperative manner with your committee and look forward to seeing a number of changes that will be evidenced in the final bill.

A number of changes or additions that need to be made through the bill—and I'll go through these fairly briefly; they will be in more detail in our written comments. But in the interests of having some time for discussion at the end, I'll just itemize them at this point.

Subsection 7(2): What we need inserted here is an address of appropriate silvicultural tools and approaches. This section talks about the forest management plan and says that it will be in accordance with the Forest Management Planning Manual. It's true that the manuals could outline that, but it seems that for the level of detail that's here, it's appropriate to also identify the need for a forest management plan to identify appropriate silvicultural tools and the general silvicultural approach that's going to be taken.

Subsection 8(2) is an important section in that this is where I think we need again to come back to the discussion of sustainability. The forest management plan is of no effect unless it is approved by the minister, and then in 8(2) we see that, "The minister shall not approve a forest management plan unless the minister is satisfied that the plan provides for the sustainability of the crown forest...." But what we need in the act, and I suggest we need it at this point in the act, is to give some body or definition to that sustainability: What does that mean? We shouldn't have to move to section 66 of the act to learn that sustainability will be defined in the manuals, and then look to the manuals and see if it is in fact defined. We should have it right here in subsection 8(2).

Again I would suggest that we rely on the work of the forest policy and pull the strategic objectives of forest sustainability from the forest policy into subsection 8(2). So what we would be saying here is that—I've got the wrong section here. It's actually the principles that we would be pulling in here from the forest policy panel's work. That would give it the kind of body that's required there.

Moving on to section 13, we see a discussion of the preparation of "forest operations prescriptions," but what isn't assumed, when I read this, is that we're talking about pre-harvest prescriptions as well as post-harvest prescriptions, and I think what we need to say here quite clearly is that we need pre-harvest prescriptions. I think the changed wording that would remedy this is to write it as 13(1) "...preparation of forest operations prescriptions, including pre-harvest silvicultural prescriptions, shall be prepared in accordance with the manual and shall include descriptions of," and then we add in a description of past activities, including fire history, harvesting records and recreational and cultural uses, and then we move on to the existing (a), which becomes (b) and so on. So we're still having the description of the structure and condition of the harvest renewal and maintenance activities and the future structuring conditions that are expected as a result of those activities.

Section 14 is a simple difficulty, but doesn't state—and we come to this at a point later in the act—that annual work schedules will be prepared in all cases. What it says is that the preparation of annual work schedules can be delegated to the licensee, but it doesn't state that the annual work schedules will be actually held in all cases. I think it's fairly simple wording changes needed just to make clear that annual work schedules will be done in all cases, rather than simply that they can be delegated in some cases, which is all it states at this point.

0950

Sections 26 and 44 travel somewhat together in that they're both sections that outline what I would term as exemptions to sustainability. In section 26 we see the requirements of the forest resource licence, and it "shall not exceed the amount described as available for harvesting in the applicable forest management plan."

But then, in subsection 26(2) we go on to see that the minister can, in writing, direct that this doesn't apply. There's no rationale and there are no criteria provided for that. To me, it's a very dangerous kind of exemption to be stating, and I would say encouraging, to say that, "The minister may in writing direct that" sustainability doesn't apply in this case. If we're saying that more can be harvested than is described as available, are we not saying that more can be harvested than is available or than is sustainable? So I think 26(2) is an exemption to sustainability that is just not appropriate in this bill.

If I could ask you to just skip to section 44, because it's similar in that it is also an exemption to sustainability, section 44 comes at the end of the discussion of the forest operators and the forest management plan and what's required and so on. Then in section 44 we see that, "The minister may in writing direct that this part...does not apply to forest operations" for areas not covered by licence and "does not exceed 25 hectares"—25 hectares is not an insignificant amount. Certainly, in other parts of the province and in this part of the province, 25 hectares can be an extremely significant amount even on its own and, incrementally, if you add 25 hectares to 25 hectares to 25 hectares, where has sustainability gone?

So I think those are two exemptions to sustainability that are not appropriate to this bill.

Section 27: I think that there is an opportunity in section 27 that there's been some discussion on over the years, and certainly in the case of our organization we've looked for opportunities to bring it into a legislative framework. That opportunity is tying supply to local mills. I think one of the failings of the current array of tenure systems and legislation and so on is that there is no mechanism—at least there's been no mechanism that we've been able to identify or others have been able to identify to us in response to our questions—to tie supply to local mills.

We see the forest industry-dependent communities are frequently prey to decreasing or depleted wood supply, and that can result in mill shutdowns or closures, but in some instances we have timber that's actually available but not available to the local mill. We had, in 1991, a mill in Kenogami shut down due to no supply, but

actually supply was being shipped. Local timber was still being cut and shipped in whole logs to out-of-province mills. In the height of the debate in Temagami, 1988 to 1991, we had supply being shipped to a mill in Arnprior. We hear from tourist operators in Hornepayne that they see their industry, the tourism industry, threatened because of cutting in their local area, but they're by distant operators. There are dozens of examples of this, where local wood supply is still available but it's not available to local people; it's being sent to distant mills.

I think that there's increasing political support and public support and recognition that there should be local control and there should be local decision-making, community decision-making, but I think that means you have to have some control over your local resource. I think being able to tie the timber supply to the local mill is an important part of that process.

We would recommend that there be developed a rating system that heavily prejudices the granting of cutting licences in favour of locally owned and controlled mills as well as for value added manufacturers, and in addition to that, that we disallow transfer of licences and allocations from a local mill to a distant mill. We have instances where a distant mill can buy a local mill, and I think quite frequently in the interest of getting the allocations. I think we need a mechanism, and this bill is the place to do it, where we disallow that so supply is tied to local mills. I think that you will find a lot of support for that, certainly from our organization and from many of the smaller operators in this region.

The final area that I want to comment on with respect to the bill, and it's a general comment, is with respect to sections 55 and 61. These are the areas that discuss fines for enforcement.

The difficulty we see there is that in section 55 the fines are quite low. In section 61 the fines are more serious, but section 61 states at one point that if you've been fined under section 55, you won't be penalized under section 61. After some discussion of that, the understanding that I have from some of the writers of the bill is that it was intended that you would be first fined under section 55, and later offences or continuing offenders would then be moved to section 61, but that's not clear as presently written. As presently written, there's nothing in the act that states that. It just says if you're fined under section 55 you'll get this level of penalty, under 61 a higher level of penalty, but you won't be fined under 61 if you've already been penalized under 55, and that's a problem. I think what it needs is just greater clarity.

Those are my comments with respect to the bill. I do want to leave some time for questions. I did want to make a brief comment on the process for the development of this bill, and I think it's been quite problematic.

It's important legislation and it's legislation that we welcome. We want to see it work, but we think that the public has been disadvantaged in its participation and its development, both of the bill and of the manuals, and even in participating in presenting to you, the standing committee.

There was no consultation in the development of the

bill, which would have been appropriate if we had seen all the products of the public consultation for the last four years clearly embodied in the bill, but there are some deficiencies there. So we don't see the forest policy panel's work, the old growth committee's work, the Ontario Independent Forest Audit's work; we don't see those clearly embodied in the bill. We hope we will before your work is finished, but we don't now, so that's a problem.

There are also difficulties in the development of the manuals. There are writing teams established which are ministry and industry writing teams, and while the environmental non-governmental organizations have theoretical access, in that we were told the writing teams would be established, we didn't have practical access. If you don't know where the meetings are, if you don't know when the meetings are and if you don't have the resources to get there, then you're not part of the process. I think, with respect to these hearings, there was not real access to these either. I know I made repeated requests for a schedule of times and dates and places so I could encourage our member organizations to bring their comments to you, and those weren't available until after the deadline.

The reality is that citizens in general take this commitment seriously. To come and present to a standing committee is a serious commitment and I would say a somewhat intimidating commitment. I don't think that's your intent, but that is the reality. People take that commitment seriously and they won't make that commitment to an unknown date and an unknown place and an unknown time. They will not. It doesn't matter how concerned they are about the bill, how concerned they are about the forests, how much they want to talk to you; in most cases they won't make that commitment.

That information wasn't available until after the deadline. There was discussion back and forth among some of our membership as to what to do. A couple of people called. They were told that they weren't going to be given time to present to this committee, that they'd missed the deadline and that the schedule was full. I don't think many further calls were made after that, because what was the point? I think that's a problem. It's a problem that the committee needs to look at in terms of its future processes, but certainly it has been a difficulty in this process. I would encourage you to find some remedy to that, perhaps scheduling additional meetings, perhaps doing accessible notices and encouraging people to at least put in written comments.

Not meaning to end on a negative note, I do thank you for the time and I do thank you for the bill. I think that it's got potential and I look forward to our work to continue to improve it.

1000

The Vice-Chair: Thank you very much for your presentation. We have about 10 minutes left for questions and answers.

Mr Gilles Bisson (Cochrane South): About three minutes per caucus?

The Vice-Chair: Yes, a little bit less.

Mr Bisson: Let me just make a quick comment on what you said and then I'll go to the question. On the consultation process, first of all, standing committees have operated in a certain way for a number of years and it's inherently a problem in the first week of a committee being out. Ever since I've been around, there's always that comment that the stuff doesn't get to you fast enough, and maybe that's something we all have to look at, as legislators, to try to make that a little bit better.

Mr David Ramsay (Timiskaming): We could have delayed it a week. You guys wanted to go ahead.

Mr Bisson: Thanks, that's really nice, David.

On the question of consultation, the class environmental assessment, as you know, was ongoing for about four or five years along with a whole bunch of processes, so the bill obviously didn't come out of nowhere. It came out of a whole bunch of other consultations that were done by previous governments and this government in regard to the whole question of forest sustainability. I think we need to temper that into there.

The other thing I want to comment on, subsection 26(2) and the other section you mentioned in regard to the 25 hectares: My understanding, and maybe you can clarify that with the ministry after, is that it is intended for fuel woodlots. It's intended to give accessibility to, let's say, a native community to be able to build roads, that kind of stuff, or to people needing access to fuel wood etc, and that's the logic behind that. You wouldn't want them to go through a forest management plan just for that. Maybe the argument is that the 25 hectares should be smaller, and I guess that's something we can look at.

My question is this: You were talking about a pre-harvest prescription being put in place. Are you aware that in the management plan it's actually required that that's what we do? That's the whole idea. There's a past history that's put in place along with the pre-harvest prescription about what you've got to do. Were you aware?

Ms Lloyd: Yes. I've seen the draft manuals, not the recent draft—I've seen the previous draft manuals—but I think it's appropriate to delegate some matters to the manuals. I think other matters need to be in the act.

I think the requirements for pre-harvest silvicultural prescription is of sufficient significance. It's my assessment that it warrants being contained in the act itself. So it could well be that we have some repetition between the act and the manuals, and there's no difficulty in that. There's no difficulty in having things reappear in the manuals, but there is a difficulty of significance, and it's not in the act as well.

Mr Ramsay: Thank you very much for your presentation. I found it very informative and I agree with many of the things that you've said today. I think we're seeing a growing consensus across the north, from all sides of this issue, about one of your main points, having some stronger definition of "sustainability" in there.

I think it would be beneficial for all users of the forest to have that there and I'm wondering: Do you also think that maybe an advantage of that, having a stronger

definition of "sustainability," might help in future challenges to the international sale of forest products from Ontario?

Ms Lloyd: I think that it will, that it'll have three important benefits. One benefit is, it'll benefit the forests. I think if we have sustainability defined, then we should have sustainability delivered, and that will obviously be of benefit to the forests and to the natural systems.

I think a second benefit is that it will provide greater certainty for all forest users. Certainly that's something I hear from industry a lot, that they want certainty, and that's something that we as an environmental organization want a lot. We don't want to go through the same debate over and over, stand by stand, plan by plan. I think that having sustainability defined clearly in the act will avoid a lot of that conflict, uncertainty and debate at a field level or a ground level.

I also think that it'll give greater certainty or assurance in terms of Canadian markets and Ontario markets. That's one place that Ontario is very vulnerable. I think we're very vulnerable. We have some very well documented evidence that our forest management practices are not good. We don't have much evidence that they are good. I think that makes Ontario vulnerable as an exporter of products, and certainly my experience, in speaking with organizations and interest groups outside of Ontario, is that there's a definite interest in Ontario's forest management practice and there's a definite interest in looking at how Ontario products flow in particularly the US market.

Whether we like it or not, there is an American interest in our forests. They have a perception that we still have an opportunity that they've lost and so on. I think they might exert some of that influence in an economic sense, and having a stronger act, clearer sustainability, gives Ontario a little more safety with respect to charges that I think are on the way with respect to our forest management practices.

Mr Gary Carr (Oakville South): Thank you very much for your presentation. Over the last few days we've heard from different groups. We've heard from industry that has said that it goes too far, and particularly some of the smaller companies saying that this particular bill may cost them their jobs and their livelihood. We've heard from other people that say it doesn't go far enough. The difficulty the government faces is in trying to get a balance between the two. I think, to their credit, this is what they've attempted to do. They've got both sides angry for different reasons regarding this bill.

Having said that, if the bill stays the same, essentially, and without these changes—you said in the beginning it doesn't live up to the name—if it remains the same, and I know you're here to try and get some amendments made, do you really think that it can still work? And would you be able to be happy with it if it doesn't get changed as you suggested?

Ms Lloyd: I don't think it makes sense to have it remain the same. It doesn't embody policies that have already been issued by this government and on which there is a public consensus. It doesn't make sense to leave it the same. It means that we've just missed the opportunity to have an act that embodies that policy, that

embodies those principles and objectives and makes it very clear.

If it remains the same, it's irrelevant. If it remains the same, then all of the land use planning discussions and debates will have to be done on the basis of policy, not legislation, and it just is too good an opportunity to bring those two, policy and legislation, in concert. It's too good an opportunity to miss. I think that if the changes aren't made, it'll be damaging in that basically we'll have the Crown Timber Act. We've already got the Crown Timber Act. We don't need to go through this to get the Crown Timber Act. So really, it'll be pretty much the status quo, legislatively.

We'll have the class EA decision. The class EA decision has some legal weight, and then we have policy decisions which have some moral weight and I think some weight in terms of government direction, but we won't have brought them together and that's what this act should do.

The Vice-Chair: Thank you very much. That will conclude your presentation. We appreciate your presence. Certainly, if you have anything in writing that you want to send to the clerk later on, please feel free to do so. He will distribute it to the committee members.

Ms Lloyd: I'll undertake to do that before you go to clause-by-clause.

BRINKMAN AND ASSOCIATES REFORESTATION

The Vice-Chair: The next presenter, the Federation of Northern Ontario Municipalities, unfortunately has cancelled. However, Brinkman and Associates Reforestation is here and we will move to this presentation.

Mr Lawrence, you have half an hour for your presentation. If you'd like to leave some time for questions and answers, we would appreciate that.

Mr John Lawrence: I don't think it'll take a lot of time. I've never presented to a committee like this and I'm not really sure what you expect from the general public, and myself, being a small business person in the province.

We've been involved in silvicultural contracting across Canada for about 25 years, 10 years of which in Ontario. During that time we've really seen quite a change in the program in Ontario in terms of forest renewal generally. We've seen an incredible increase and concern and seemingly a vision of what forest renewal was going to be in Ontario.

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Then we've seen an incredible turnaround and seemingly every effort made to convince the public that it doesn't matter what you do or don't do in the forest, everything is okay; everything is green. It's somewhat difficult to come to something like this without a bit of a sense of cynicism, scepticism, even a bit of anger, to see an act proclaiming the sustainability of the crown forests of Ontario.

What does "sustainability" mean? In some ways, over the last several years this has become quite a numbers game in terms of harvest levels and regeneration levels. It's not really clear what to take from this. Of course, when I first get the document, I look through for what

"sustainability" means. It refers me to different sections and finally to these manuals, of which I got draft copies which somebody carefully punched "draft" all over. Even in those sections it doesn't really make clear what "sustainability" is, so I'm not really clear what we're evaluating in terms of the basic focus of the act, which is presumably sustainability. I don't know what we're trying to sustain. I don't know why we're trying to sustain it. I'm not really clear on what all that means.

Beyond that, there are some other concerns we would have as a silvicultural industry that aren't addressed directly in the act. They are referred to in the manuals and, as far as that goes, I guess we have to wait and see what the manuals will really come up with. As it is now, they're in draft form and a fair bit of what I read suggested that they will have XXX, but nothing very specific at this point.

I suppose in some ways that makes sense because you wouldn't want to make something that wouldn't work across the different regions and areas of Ontario. But, given the recent history of what's been going on in Ontario, it does make one somewhat sceptical about what's really going to come out of this.

It's very easy, in forestry, to use this projection or that projection or this group of numbers or that group of numbers and make everything seem like it all makes sense. But the fact is, if you travel around Ontario—and I've spent a lot of time since 1983 working in this industry, working from Niagara Falls to the Manitoba border, the Quebec border—forests come down and something comes back. Do we want conifers to come back, do we want commercial species to come back or do we just want it to be green?

Currently, it seems, people are happy just to say that it's green and there are willow bushes and grass or maybe there's some balsam or maybe there's some spruce. That's another issue. Who really knows what's going on in Ontario? We need, clearly, a lot better recordkeeping and a lot better inventory of what's really going on out there.

Those are the ways that I approach this act, somewhat sceptically. At the same time, I'm quite encouraged that we are trying to make a change and that there is some new direction.

In particular, from our perspective, it's this whole issue of securing funds for forest renewal in order that if a pre-harvest prescription is made—and I understand that the timber management planning process does put in those pre-harvest prescriptions—I'd like to be sure that process has the teeth to make sure that happens. I'm not clear right now that if a timber management plan goes into place and nothing happens afterwards, if somebody decides, "Well, we don't have the money, we don't have the time," or, "The roads are bad and we're not going to do anything about that area," then what happens? I'm not really clear how all that would take place.

As it stands right now, there are a lot of areas in Ontario, crown management units in particular, where timber management plans were made and never followed through on and everybody just seems to be happy to say, "Well, that's just going to go into the general area that

we're going to call 'coming back naturally.'" Unplanned natural regeneration is I guess what it's called.

In any case, we are encouraged that the forest renewal trust and the forestry futures trust fund are going to finally ensure that there's going to be some security of funding at the time of harvest to make sure that post-harvest treatments will take place, whatever they may be.

The other areas of concern that we don't necessarily see in there are this issue of how that's dealt with for the TMP process, whether that's a rigorous process that binds the harvester to do that pre- or post-harvest treatment, and also in terms of the silvicultural standards. We haven't really seen anything concrete in terms of what the silvicultural standards are going to be, and that's a concern for us.

At this point, I understand that the ministry uses a stocking distribution for stocking of preferred species of 40%, and we'd certainly like to see that come up to 75% or 80%, but I'm not really sure how that fits in to these silvicultural manuals. Trying to leaf through it, it's not really clear to me where all of that's going to come into play.

It seems to me a bit like it's going to be negotiated area by area or unit by unit, which again makes sense, but it depends what your terms of reference are for coming up with those stocking standards. I suggest they would have to be based on the needs of the forest, so I would like to see some kind of mechanism in there that makes sure that's the main criterion and not whether other considerations might come into play and reduce those standards.

If a mill is deciding, "Well, right now things are quite good, we need to keep cutting, but we may not be here 10 or 15 years down the road," then, of course, they may not want to spend that kind of money or look at the kind of stocking standards that might increase their yield over time.

I think that has been a concern of ours, that it's fine if we have the funds in beforehand, but unless there's a rigorous and stringent process to ensure that there's something there afterwards, regardless of what the objectives are, that those objectives are met and that would relate to us for silvicultural standards, then we're not very confident that it won't be just anything other than the status quo.

I'm not a lawyer, so I don't know if stuff like this should be put into an act. I suspect it probably shouldn't, but it should be something more than at the point of talking about the act you're looking at vague manuals that are in draft form that promise that they might do this or that. It seems to me it should be something more concrete than that.

We're also in favour of the annual reports that are to be done by the ministry to report on the progress of what's happening in the forest so that there can be some real measure of what was proposed and what's actually happened. I think too often it's been the case that nobody really knows what's happening or not happening over a course of several years. Then a bunch of people put together some numbers to see what's really going on and

it becomes unclear and it becomes another issue to look into it further and nothing's really able to be decided based on that.

I guess I'm kind of rambling around here, but my basic feeling is that we're quite optimistic that this act will take us forward into a better situation for forest renewal. At the same time we have some concerns on the follow-through. That's about all I have to say.

The Vice-Chair: Thank you very much. We certainly appreciated your spontaneous remarks. You don't have to be concerned at all about it. That's what these hearings are here for, to hear from people such as yourself who have obviously very deep interests in this issue and in the bill.

Mr Brown: We certainly appreciate your coming. I think we share your view that certainly silviculture funding within the mandate of the present government has been significantly reduced, and the numbers demonstrate that clearly. I think the number is about 30 million less tree seedlings are planted in the crown forests each year, about half the area is actually tended as it was tended in 1990. No one's claiming that 1990 was perfect, but certainly it was a long way ahead of where we are today.

I've heard representations from your group and I've heard representations from the tree seedling growers, and I know that much of what the government has done has caused your particular industry to have some very interesting times, I think it would be fair to say.

The thing that concerns me, though, is that we have the trust mechanism and people talk as if this is going to fix everything, but clearly it's not. Clearly government spends much more on reforestation than the approximately \$60 million or \$66 million that will be available through the trust fund mechanism, so we have to look at the overall support of the industry, particularly on the crown land units. As you know, they are much more difficult for us to manage as a provincial government than the FMAs, or what used to be the FMAs under the former act.

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I wonder if you could give us some ideas, perhaps from your perspective, on how we deal with these crown management units in a more realistic way in order to get the forest—and I think you made some good points about the forest too. What kind of forest do we want? If we don't do anything, something's going to grow. We know that. It will be green. The recent audit proves that. It's just that it's not maybe green in a way that we want it to be.

Mr Lawrence: It would seem to me that the forest management agreements are based on an agreement with a major utilizer of the resource and the government and there are very stringent factors that come into place that that resource user on the FMA has to meet certain criteria to take care of the land as the crown would have them do. In some cases that works very well, in some cases it doesn't.

As far as the crown units go, what you would have is some utilizers of the resource fighting for a share of the

resource. They can't necessarily use the resource on the FMAs, so they're trying to get the resource on the crown units. What you have are decisions that are very often made totally outside any kind of timber management planning process, based totally on politics. You have crown management units that are harvested at rates that are—well, it's a numbers game, but it would seem to the observer quite unsustainable levels.

The whole issue becomes one of politics: The mill expanded; therefore, they need more wood. They haven't got the land base to get more wood, but they expanded the mill. Are you going to tell them to close down 200 jobs? It gets to be a bit of a game. That's a fact of life. Politics are part of how things work. I guess you guys all know that.

Mr Brown: No.

Mr Lawrence: But if we're talking about an act that's going to prescribe the sustainability of something, there have to be some criteria by which to measure whether those decisions can be made. We need to make those decisions, as tough as they might be, and not try to get through the next four years into the next government.

Mr Ramsay: Like my colleague Mike Brown, I really did appreciate your presentation, John. I'd like to get a little more detail from you, when you talked about the preferred stocking species and how you think we should be regenerating the forest. You talked about the policy now is about 40% of preferred species going into the ground and you think you'd like to see that up to 75%, 80%. Could you expand on that for me?

Mr Lawrence: I guess the concept I sort of have working in this industry, there's this whole issue, "Are we planting trees or tending forests in order to create sawlogs for a mill that's there right now?" I mean, those trees may not get to maturity before 90 or 100 years. Who knows if there'll be a sawmill there. That's something that we need to look at a little bit. There's this whole notion of managing the forests for a given product at the end, but I think we need to manage it on a larger level than that, because, really, who knows, 90 to 100 years down the road what's going to be there.

If we can have some kind of commitment that there is going to be that kind of resource need in that area, then that's a different issue, but it doesn't seem like we operate that way at the current time. People operate for the next 15 years, maybe 20 years, and everything beyond that is a numbers game. I guess, as far as that goes, I think if people decide that they want to keep the current forest makeup in Ontario, the percentage of conifer versus hardwood, then we're going to have to do a lot more work to make that happen.

The independent forest audit quite clearly showed that areas are coming back increasingly to hardwood as opposed to conifer. I suppose that's a decision that needs to be made politically, whether we really want to continue the current forest makeup. It's definitely my impression that over the last few years what we've seen is a sense that maybe these conifer mills are history anyway, so why bother spending that much money there.

Maybe that's a valid approach. It seems dangerous to

me because the independent audit has already shown that there's a dramatic increase in hardwood and we are changing the forest makeup of the province. If we're happy to do that, that's a decision we should take, but I think that in terms of what we want to get out of the forest, we have to make some very hard decisions about that.

If you want conifer, then you should ask for something that's attainable yet something that's stringent enough so that happens. It's not enough to just plant some conifer or tend some conifer and then have it be taken over by hardwoods in the sixth or seventh year after the work has taken place.

Mr Hodgson: Thank you very much, John. David actually hit on the question that I wanted to get to. This bill tries to do sustainability in two ways: It tries to sustain the jobs in the communities that are there as well as the forest as an ecosystem. Maybe that's not attainable. This sort of locks in the status quo on the jobs, yet the planning for the forest has to go on for a 60- or 70-year time frame.

Mr Lawrence: It's hard to say. I don't know all of the figures, but over 10 years travelling around, you see what's happening. It's definitely clear that in a lot of areas there is sustainable forest industry there; you can see that, despite the amount of cutting that happens, there are new areas coming in and there are a lot of areas left over.

But I don't think anybody around this table has any illusions that there are some communities in northern Ontario that in the next 10, 15, maybe 20 years are not going to have a resource to run their mills. I mean, it's not an alarmist thing; everybody talks about it.

There's some overcutting happening, and that happens because of political decisions rather than decisions based on what the resource can handle. So what is sustainability? Are we sustaining those jobs for 20 years? Are we sustaining the forest for 20 years? What does sustainability mean? In perpetuity? I'm not sure.

Mr Hodgson: Any of the definitions that I've seen recommended to this committee that they adopt as a definition for sustainability don't define that aspect of sustainability. They talk about it in vague terms of sustaining the forest as an ecological system, but they don't try to address what's clearly set out in this bill as the sustainable economic benefits for the communities or the status quo in terms of jobs.

Mr Lawrence: Certainly I would think it's important to sustain the ecological viability. That's how we live, we breathe. But at the same time, there is the fact that there's a bit of a myth in Ontario, northern Ontario particularly, that tourism is somehow going to save all these communities that don't have a mill any more.

Not everybody wants to go to some of these communities in northern Ontario, so we might as well get with the fact that these are resource-based communities. Unless we can sustain the resource for those communities, they're just not going to be there. Maybe that's not important; maybe we'd be happy to close down some communities. You guys deal with that. I don't know.

Mr Hodgson: What was your earlier comment about politics?

Mr Lawrence: No comment?

Mr Hodgson: But to follow up on that, maybe it's stretching it, then, to even state that in the parameters. Maybe that's why the government's avoided defining it: because you don't know, there's not enough scientific evidence, or maybe there is but they don't want to address it.

Mr Lawrence: I think there is enough evidence there that forests can be managed sustainably, but there are a lot of other factors that come into play that kind of make you have to rework figures to please them. I mean, if somebody's dealing with the licence and they're told that you should let another company come in and take a couple of townships, what are they supposed to do? They're managing their licence sustainably and politically they're told to give some volume to somebody else. Those kinds of tradeoffs happen politically, but they don't necessarily mesh with the concept of sustainability.

Mr Hodgson: Mr Chair, I just have one further question. It's in regard to this preferred stock. David actually asked the question, but I'd just like another angle on it. We've had people present presentations here that view the forest in terms of an ecosystem that should grow up hurly-burly to encourage the natural connections that form. They reject the agricultural model of forestry and consider that an industrial approach.

Do you have any comments on that? Because when you're talking about the stock going from 75% to 80%, you're clearly indicating that forestry should follow some agricultural precepts, that you can plan but it's just a longer-term crop rotation than it is in farming.

Mr Lawrence: I think the issue is at a certain point you're going to say to yourself, if you want to save some areas of forest and you want to continue with an economy based on the resources that are coming out of those forests, then you have to separate the notion of working forests and the wider forests that are out there.

There are starting to be these concepts of landscape management of the forest, so you're going to be managing some areas more intensively than others. Certainly the notion that some areas will come back naturally is already working in a lot of areas, but it's not working everywhere and in a lot of areas where it is working, we're not really certain how well it's working yet.

It would be foolish to project now 20 years down the road based on the knowledge that's coming in over the last five years. Forestry takes a long time. I think that it's always going to have to be a mix of the two things, but there have to be some decisions made about the working forest as opposed to the extensive forest.

Mr Wood: Thank you for coming forward and an excellent presentation. I just want to make a couple of comments and then I have a brief question. The purpose of Bill 171, I guess—and it goes back over a number of years with this government, with the previous government and the previous government before that, because we've heard over the last 15 years that something had to be done, something had to be brought forward to make sure

that we have sustainable forests, sustainable communities and a healthy forest out there.

Bill 171 is designed to address that, but we want to hear from people like yourself as to what amendments should be brought forward, what other language should be put into the manuals to make it so that it'll take us into the 21st century and protect the forests that are out there in the 50 or more communities in northern Ontario that depend on the \$12-billion industry.

I just want to ask you to get a little bit more into sustainability when it comes to these communities and the different types of forests that are around the different communities, because we know that a forest in this area is completely different from a forest in Hearst or Kapuskasing and different again when you get to Dryden, Kenora, Fort Frances, and these areas. When we're talking about sustainability and the ecosystem, I just wondered if you want to make a few other comments so that we can gather more information and try to address that issue.

Mr Lawrence: For me, unfortunately, sustainability has become a bit of a buzzword. But the notion of managing a forest or a forest resource for the long term I assume is part of sustainability. The notion of managing an ecosystem or working within an ecosystem so that it and yourself will be there for the long term I assume is part of sustainability. Maybe that's difficult to define in legislation, but presumably this legislation when it talks about sustainability as a term is talking about the long term of all of the multifaceted aspects of the forests and the communities around them.

I'm not sure exactly what you're asking me for, but I guess I would say that I don't think you can separate one from the other. I just don't think you can separate one from the other, but I think if this document is going to talk about sustainability, it has an obligation to define that somewhat. Because it's such a popular word these days—I mean, there have been whole commissions with the UN on it—I think everybody has a bit of a different idea of what it actually means.

Mr Wood: Just one other brief comment or question. I understand from going through it that this is the first time that they're trying to address a guarantee of a certain amount of dollars that is going to go back in, with the trust funds being set up which were addressed in the budget that had first, second and third reading in June, I believe, wrapped up, and there are special accounts for renewal of that, and what your feeling would be on those. Are those going to address the problem that we've had over the last 15 years or so?

Mr Lawrence: I think at this point it's like—this season I didn't know until basically a week before we were moving our crews into the bush exactly what was going to happen out there. We were all joking about being by our radios and waiting for the word go. So it can't help but add some more stability, and in terms of the whole notion of a pre-harvest prescription and a timber management plan, presumably now we're going to see that those plans will be followed through on. To that extent we definitely see it as totally positive, and we're very optimistic about it. Whether it's going to be enough

is another issue. But at this point everything's been going so far down that it can't get any worse, right?

Mr Wood: We're trying to bring everything together into a piece of legislation. Thank you very much for your presentation.

The Vice-Chair: That's what we hope too, Mr Lawrence, that things won't get worse. Thank you very much again for your contribution. It is much appreciated. As you saw, there was quite a bit of interest from the committee members.

The next presenter is not here yet. They're scheduled for 11 o'clock. I'm just wondering, is Isadore Roy perhaps here and willing to make a presentation? No? Then I think we will have to recess until 11 o'clock. The committee stands adjourned until 11 o'clock.

The committee recessed from 1035 to 1103.

MATTAWA AND AREA FORESTRY COMMITTEE

The Vice-Chair: Could we reassemble, please. This committee is now back in session and we will continue the hearings on Bill 171. Mr Mike Brophy, I think, is here now to speak for the Mattawa and Area Forestry Committee, corporation of the town of Mattawa. I understand you're the chair of the committee. If you'd like to introduce also the other gentleman who is with you, you have half an hour. If you'd like to leave some time for questions and answers, it would be appreciated.

Mr Mike Brophy: Thank you very much. First, I'd like to introduce Fern Levesque. Fern's a councillor in the town of Mattawa and is chair of the Mattawa and Area Wood Industry Task Force, which is a committee of a number of municipalities and companies' representatives from the entire area. I know you've met earlier with other folks in other areas and some of what I have to say you may have heard before, but I think it's important to be said.

Firstly, thank you and my appreciation for allowing us to be here. I stand as chair of the Mattawa and Area Forestry Committee, which is a subcommittee of Fern's committee. I'm a chartered accountant. I live on a farm in the township of Bonfield, one of our member communities, and, as a matter of interest to you, in the last 20 years on my property I've planted in excess of 20,000 trees, so I have some knowledge besides the accounting areas.

The committee that I'm representing today is made up of municipalities in our area: the town of Mattawa and the townships of Bonfield, Papineau-Cameron, Calvin and Mattawan. We have representatives on our committee from the major mills in the area, being Tembec and Columbia Forest Products. We have significant local contractors involved with our committee, those being people from the Janveaux, Whalley and Clouthier organizations. We also have representatives from the local unions on our committee.

My plan today is to, firstly, inform your committee about the importance of the forestry industry to us; secondly, to let you know very clearly that we desire to take control of our own destiny and that involves local committees to take control of our own destiny relative to the economics of the area. The third thing I'm going to

do is talk, and most of my talk today will of course be on the bill itself.

Our committee has already realized, without question, the importance of the timber industry to our area. The first thing that our group did was literally quantify the effect, the importance, the significance of the timber industry in our area. To that end, in quantifying the importance, we commissioned a study. The study was completed in the spring of this year.

I was advised to lodge three copies of the complete report with you. I've done that with the clerk. There are three copies, and I'm informed by the clerk that indeed if you would like a copy of the full report, he'll have it made for you.

I've also lodged with the clerk, and I understand it has been distributed to you, the executive summary of the report. It's a three-page document and I'd like to lead you through a couple of key points in the executive summary.

First of all, the timber industry in our area contributes \$16.7 million annually to our economy in these five townships. It's important, I think, to advise you that, and this is written in the executive summary, the tourism industry gives about \$2.5 million to our local economy. Our economy in our communities is, without question, centred around the timber industry and it's very much important that that be understood. To us, timber really is big business.

The executive summary and, in detail, the report goes on to very clearly show what both increases and decreases in our wood supply would do in our area. The study will show to you that a 10% increase in wood supply in our area would result in a \$2.6-million increase in jobs, in economic impact annually in our area. The disturbing fact that this report states is that a 10% decrease in wood supply would literally mean a catastrophic \$35-million effect in our area. The report and the executive summary goes on to say that a 10% decrease in wood supply would probably close the Tembec mills in our area.

The last point that the executive summary states clearly, and it's the last point, I think, on page 3, is that the current insecurity in wood supply is delaying planning by both contractors and people in industry in the Mattawa communities. We want to plan our futures and it's important that issues such as wood supply not be at the whim or not be in question, as they seem to be so often today.

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With respect to the issue about taking control of our own destiny, my committee very clearly is not just working to keep the forestry industry at the current levels, that is, the \$16.7-million annual impact in our small part of Ontario. We are going to be actively working towards value added processes. We believe quite clearly that we have to take command, take charge of our own destiny, and our groups are pushing forward to do that.

The act that's in front of us to talk about today is very much important to us and important to the route we're going to be following in taking control of our destiny.

With respect to the bill, first of all and quite clearly,

the bill deals with the future of the forests and therefore it is vitally important to us. It's important to our future, both my committee's future and the future of all of the inhabitants of our area. The bill, without question, has some very positive things, and I can't talk to you about the negative things without first speaking about the positive things.

The good ideas: The first one that we're so happy to see and we want to be very clearly on the record as having supported is the concept of local autonomy; the concept of local responsibility; the concept of citizen involvement. That's important to us because we believe strongly, as I've said earlier, we want to control our future, we don't want someone else to do it.

We want to control our future with responsibility, with an understanding of all of the issues involved in the management of the forest. But we want to be involved; in fact we want to run our own affairs. Thus, the concepts of local autonomy, of local involvement are very important.

The second very important concept that's put forward in the bill is the concept of the forest renewal trust fund. In our view, the trust fund will start a process that will help renew the forests. In the past there have been problems about responsibility, about money; it was always budget we had to worry about, the industry had to worry about. Under this act there will be the start of the trust fund concept and we absolutely applaud the folks who have been involved in the drafting of that.

We have a number of concerns, however, and we want them very clearly put to you. These are in no order of significance, but rather all are important to us.

The first issue that we would like to put in front of you is the issue of measurement and accountability. At the outset of our discussions on the bill, I really wonder what the true provincial position concerning the timber industry really is.

Where are we? There are a number of bits of the puzzle but there doesn't seem to be one definitive balance sheet. Where are we? Effectively, where are the quantities of available lumber? How much is there, is it available and for how long? Do we have a viable industry in the long term right now? I've done a bit of research and I can't find the answers to that.

How, really, are we doing? I've travelled in a number of other jurisdictions, and as I was thinking about what I'd say to you today, I thought of New Zealand. I've driven a great deal in the country of New Zealand. As you're driving through the man-made forests, the man-planted forests, you can't really but wonder in awe about the great foresight people had in planting those tremendous stands of trees. Indeed, we've done some of that in Ontario but we don't seem to see an analysis of, where are we?

Where is the total inventory or crop count and how does it fit? I know these things exist in various places, but how do they fit? What's the benchmark—and this is what I'm leading to about measurement and accountability—by which we're going to be judged in the future? We're going to spend some money out of this

trust fund, but are we going to be improving what we think is a questionably bad situation now? Where's the accountability in the bill? Where's the benchmark which we'll use to judge the success of the bill?

Given the significance of the industry in this province, we wonder where the five-year plan is or the master plan is that would enhance our industry. Again, the benchmark. What are the goals of the timber industry in terms of time, money and requirements? More on this later, and I hope I can tie these parts together.

Next thing I want to just address simply is the definition of "sustainability." I would be not surprised at all if this is the first bill in Ontario history that has a very complicated word in the title of the bill that doesn't have the definition in the bill, in the act. My understanding is that the definition of "sustainability" is going to be included in the regulations.

Gentlemen, I ask you, where is the definition of "sustainability," and it really is difficult for us to understand. We ask the question, sustainable in whose eyes?

In subsection 39(2) of the act, the minister will have the right to act regarding sustainability. This minister will no doubt do what's right, and the next one will, but we think that we shouldn't just be at the whim of the politics of the day with respect to the definition of sustainability. The entire act is based on the idea of "sustainability," so what does it mean? I think that should be, without question, in the act.

To that end, you all I'm sure have seen the article by MacKay in the Toronto Star last Sunday, but I do want to quote it. "It may well be that the industry cannot harvest sustainably while remaining competitive. If that is so, it should be admitted and not be obscured by the title of governing legislation."

There are a lot of people concerned about what we mean by sustainability, my group included. Let's make sure that we can keep this very important industry in Ontario viable. Tying this viability, tying this concept of the importance of the timber industry to the term "sustainability" is extremely important. Where are we with respect to sustainability? Where do we want to go? What's the goal?

The next thing that I want to speak to regarding the act is the issue of local management.

Sections 12 and 14 state that the minister "may establish" and "may require" respectively. It's our understanding that environmental assessment now makes the "may" a must. So instead of saying "may" where it must be must, let's say "must."

Continuing on the concept of local management, the minister was very clear in his press release of June 1, and I quote: "Key elements of the new legislation include" and there is listing, and the last item on the listing, "establishing local citizens' committees to give people living in communities that depend on forests for their economic stability a greater say in how the forests are managed."

Section 12 and then section 62 of the act, 62(1), both speak to this: "The minister may." Now on one hand the press release says that there are going to be local citizens'

committees established. However, the act says not that; the act says, "The minister may." This isn't quite what the press release implies.

We, as I've said a number of times, are in favour of local autonomy and we feel that this concept should be very much strengthened in the act. It's a great start, but let's give it more significance.

To that end, section 62, the "Miscellaneous" section in the act, leaves me wondering. Let me explain why. If we put the local autonomy section into section 62 under "Miscellaneous," two points down, in section 64, we talk about how to give a scaler a licence. It says to me that the local autonomy issue is not as important as perhaps we're talking about.

I believe, gentlemen, you should move the local autonomy issue far, far from miscellaneous issues to a complete and separate section altogether in the act. Let's give the significance to this concept of local autonomy that the minister implied was there. Let's don't leave it in the same section as giving scaling licences.

1120

The next point I'd like to do is deal with the trust fund. Part V of the act deals with the trust fund, and it's going to be established using part of the industry's stumpage and area fees.

On one hand, that's a great step forward. You get this money actually set aside for the forests. On the other hand, what happens is that it's only part of the stumpage and area fees. I'll have to admit, I suppose, that the province has got financial problems. The problems of the timber industry, the forestry industry are very serious, and the idea of having only some of stumpage and some of area fees go into the trust fund bothers me. Why should only some of it? Why not all of it go?

The men and women who work in the timber industry all pay the various payroll taxes. They all pay income tax. The timber industry pays income tax. They pay all of the fees and charges and costs that every other industry in Ontario pays. We feel strongly that all of the money that's collected out of the forests should go into the forests.

The moneys that are available from payroll taxes and income taxes and sales taxes and the rest should go for the social issues, the social needs. Let's put the money from stumpage and area fees into the trust fund: all of it, not just a part, as defined by regulation. Again, how much goes is a regulation; it's not part of the act.

Going on about the trust fund, as a chartered accountant I'm concerned about value for money. The act in part V, in discussing the trust fund, talks about indeed a trustee separate from the government reporting on the financial affairs of the trust fund. Value for money concerns me. Questions enter my mind like the following: Is this simply a summary of revenues or cash receipts and cash disbursements? Shouldn't we have an attestation as to the results of the expenditures? Are we better off in Ontario because of the expenditures, or worse off?

I talked earlier about the need to have, in my view, a benchmark, and then something to measure ourselves against. Well, are we better off having had these funds go

into the trust account and then be disbursed? We think we should know about that.

The confusion about the amount of money going into the trust fund is bothersome as well. The minister, in a North Bay Nugget article on August 13, talked about \$10 million coming into the trust fund. My mindset says that's not a lot. Ministry of Natural Resources officials here in North Bay at a meeting I attended last week at first indicated they thought, and I'm not going to quantify their numbers, but thought there was going to be lots more money than \$10 million going into the trust fund. Then perhaps cooler heads prevailed and, "No, let's just sit back and not quantify it."

It's very difficult for us to sit here and say, "Is this a good idea?" when we don't know the quantity of funds that are going to be available. Is the province simply going to walk away from needing to invest any more of general revenues, including the rest of the money from the forestry industry? Is the province simply going to walk away from spending any money in the forests any more at all because the trust fund is there? We hope that's not the case, but we don't see any information about that.

A couple of other comments: Firstly, the Algonquin Forestry Authority in section 76 appears to be included in the act, and if that is the case, and it looks like it is and we think it is, we think that's a good idea. We think it's proper and appropriate and so we applaud that comment.

With respect to regulations, the manuals, we understand that ministry staff have been working a great deal and working with local committees on construction of these manuals. The manuals are very, very important to the entire carriage of the act.

There seems to be a very much hurried view of the manuals and the act, but in particular at this point, the manuals. We trust that they're being done properly, but with the fast notice, we sort of have to leave the issue of these manuals out on a side table until we can see them. Ministry staff have said they're going to send me copies and I understand my friend Fern has some drafts with him. We got them today. So we have to put the issue of the manuals to one side, but it leads us to a second issue about these manuals.

Our area has a number of small jobbers. We understand that there's a concern in the act that possibly will call for the disbandment or the cancellation of some licences. Some of our jobbers are, shall I say, less than sophisticated in their ability to put things to paper. That's not to say that they forest in any negative manner. They're good operators and we don't want to be critical, but they act a little bit less sophisticated in paperwork than, say, you and I. We want to ensure that they are accounted for, that they are taken care of and that this isn't an onslaught of bureaucracy that will cause significant problems to these people. We would like you to ensure that's not the case, without question.

The Vice-Chair: You have five minutes.

Mr Brophy: Thank you. The other issue that I'd like to talk about regarding the manuals and the regulations is the fact that before they are made into force, we'd like to

see the final documents and we'd like to be able to comment on them.

In summary, we support many of the tenets of the act, without question. There are areas of concern. We've listed them today. We are concerned about one and one thing paramount and that is that we want local autonomy, we want the ability to craft our own future. Some of that seems to be in this document. We hope that continues. We hope that in your deliberations the comments that I've made today, in particular about reinforcing local autonomy, local committees, local citizens' involvement, will be listened to.

I've finished comments I wanted to make. I'm very much interested in answering questions. I have one last comment to make after. Are there any questions? I'd be happy to speak to them.

The Vice-Chair: You had one last comment?

Mr Brophy: I have one comment to make. We have a local area plan already in effect. We want to make sure that as we're going forward with the new law, the new change, as we need to amend that document, we're again not going to be burdened with a great deal of bureaucracy, but that this local autonomy issue can continue and that the plan is indeed amendable. That's about it.

1130

The Vice-Chair: Just before I start the questions and answers, is Mr Isadore Roy here? Seeing that the next presenter is not here, we might take a little bit more time than is otherwise available right now. We'll start with the Conservative critic, Mr Hodgson.

Mr Hodgson: Thank you, Mike and Fern, for coming in. This is our third day of the hearings, and we first saw the bill back in June. A number of us have expressed similar support in the broad strokes of the policy. I think there's general consensus that the Crown Timber Act needed to be revised and updated and I think people are encouraged at the prospect of local autonomy. I think everybody's calling for the trust fund to try to get the money back in to give a guarantee to the industry that yes, there's going to be replanting in the future and people could plan for that. Investment depends on long-range planning and certainty.

I have a couple of questions on section 62. This is the first. If we were to move the citizens' committees into a separate piece of legislation, it's not defined yet how the criteria for establishing these local committees are to be determined and it's not established what authority they'll have. Do you have any opinions on how the makeup should be arrived at?

Mr Brophy: The first thing I'd say is that whether it be a separate act or simply moving it up to section 10 or 20 of the act, my vision is that when it's hidden in "Miscellaneous" beside scalers, it's not got the substance or the feeling of how important it is there. My first comment is, let's move it into a far more prominent place within the legislation.

In the Mattawa area, we would like to be one of the lead communities, one of the lead areas in this entire concept. The North Bay office of MNR are good people. We've seen good comments from them and we're very

anxious to go forward. Now, how that should be enacted, I'm not sure, but quite seriously, we want to be included in the lead in this entire concept.

Mr Hodgson: There are opinions that we've heard that crown forests are public lands and therefore provincial interest groups should have a say in these local decision-making groups. We've been presented with a number of them, and that's a concern to me.

The issue of how much money goes into the trust fund: I asked that the opening day. The ministry's staff say that this year there will be \$60 million generated for the forest renewal fund and \$6 million for the futures fund and \$14 million for the area charges. The area charges go to the consolidated revenue fund. In the minister's statement he mentioned \$100 million would be generated in the trust funds and I was assured on Monday morning that that would be topped up to \$100 million—

Mr Brophy: So it will be \$100 million.

Mr Hodgson: Yes, \$100 million. That's what will be in the Hansard from the opening day when I asked that question. I also asked who was appointed as a trustee because, as you're aware, the funds were established under Bill 160 back in the spring and there are going to be ads put out, I'm sure, to advertise for a trustee.

The manuals are a difficult problem. We were unable to delay this week to make sure everybody had the manuals to go through, but I was assured on Monday morning that there will be a second workshop implemented for working on the manuals. There was one back in July and there will be another one after the clause-by-clause.

I've also expressed, and I was glad to hear you mention it, the small jobbers' concern. I've been assured by the government side that small jobbers are protected, but the possibilities of the cost of compliance to what's outlined in the manuals will make them so they're uncompetitive.

Mr Brophy: Exactly. That's the concern.

Mr Hodgson: That's my concern as well. Do you have any suggestions? If you do, if you could elaborate on how to strengthen that.

Mr Brophy: Well, one has to sit back, I guess, and look at cost benefit. When you see a small jobber working, it seems to me that the cost of having compliance could be \$5,000, \$10,000 of paperwork. I don't know the number, but let's use \$5,000. The small jobber, in most cases, is not doing well.

It seems to me that when you talk cost benefit, the cost-benefit analysis that I would put forward would be that you've got to look at the whole and the little, and if we have to have a representative of the ministry come and spend a half day or a day helping fill in some forms, perhaps that's the way around it. But if we don't recognize the problem of the small jobber to begin with, we could be putting a couple of thousand people out of work, and we don't need to do that.

Mr Hodgson: With the attendant spinoff into our local economy.

One more question, with the leniency of the Chair.

The Vice-Chair: I'm sorry. You spent your five minutes. Mr Bisson.

Mr Bisson: I would like to clarify a couple of points, and then I would have a question around sections 12 and 62.

The first one: You talked about the process of quantifying the state of the forest. I agree with you, that's something that hasn't been done up until recently and it's something that's been undertaken by the ministry; as of about a year ago they started working on a process to do that so that we can quantify what's in the forest and we can then have a better idea. We're now moving on to another stage and maybe we can have somebody from the ministry explain that a bit in detail and maybe you can get plugged into the process.

The second thing was in regard to sections 23 and 24—no, in regard to the burden of paperwork on the small operators. One of the things within the bill is that there are two licences. There's a licence under section 23 by which the large operator, normally an E.B. Eddy or that kind of company would undertake to do all of the forest management plan, would undertake all of the work.

Under a section 24 licence this is more particular to a smaller jobber who doesn't have the sophistication that you talked about, or maybe doesn't have the ability to be able to do the forest management plan. The anticipation under section 24 is to have the MNR or a person that he or she chooses to do that for them. They would draw that from the trust fund is the way it would be done in an attempt to recognize that. You can comment, but I'm just going to get to the other point. I guess these are the two questions running together and I'll just ask you them and maybe you can comment.

On the question of why not describe sustainability in the act, I guess it comes back to something I've learned through the MISA regulations when we were talking about effluent under MISA. One of the things is that, as we know, the technology and our ability to deal with things changes a lot over the years. If you try to define something too concrete into the act, you may not be able to keep up with those changes.

I guess that's one of the concerns on why sustainability is not defined in the act but rather in the manual. I'd like to get your thoughts on that. Should we try to be inflexible in the act or should we try to allow ourselves to change with time? I'd like to hear your thoughts on that.

The other thing in regard to sections 12 and 62, which is another question, is, you talked about you want "may" changed to "shall" for both citizens' committees and local management boards. From my understanding—and I would look for a nod from the ministry people—the idea that "may" is in there is that it gives the minister or the ministry the ability to decide, "Are we going to have a local citizens' committee or are we going to have a local management board?"

Clearly, let's say, lumber in my area would be more a citizens' committee because they have the expertise and the ability to do things. They've been doing them for a number of years. You wouldn't want to put a management board in. But maybe where you're cutting a lot of

independent loggers, you may want to have a management board or get the minister to do one of the two. I'd just like your comments on that.

Mr Brophy: Well, going in reverse order, I didn't interpret it that way. I interpreted it—

Interjection.

Mr Brophy: So my suggestion to you, sir, is to take it back to Queen's Park to have the folks put what you've just said in there. It's one or the other—

Mr Bisson: One or the other.

Mr Brophy: —but because. It's because; it's not "may."

Mr Bisson: That's fair.

Mr Brophy: Again, we're dealing with a minister two times from now who may be of a different colour, who goes on whims—excuse me for saying it that way—and I don't want that. I want it to be very clear.

Mr Bisson: So one or the other.

The Vice-Chair: I'm sorry, Mr Bisson. Are you finished?

Mr Brophy: Yes. Going back to sustainability, there's a tradeoff, in my view. Sustainability, if it changes with technology and with new information and with new environmental issues, that's understood. Our problem is that we want a definition. We have to plan our lives and our businesses and our future and we don't want to be tied or hampered by the fact that the rules may change. Give us the rules. Give us what the definition today of "sustainability" really is, and then let us argue with you for a while, with whomever, and then come to an agreed, "This is going to be the definition."

In five years, if it's appropriate to change the definition because, that's fine, but we've got a road that we're going down, we need to know the rules. You can't change the rules of Monopoly, like my children are wont to do, all the time. I just want the rules set. That's why we want sustainability defined.

1140

The Vice-Chair: Since the rules for this committee are that each party should be given some time, I think we'll have to move on to the Liberals now for an answer—for questions. Mr Brown.

Mr Brown: Yes, I ask questions; I don't answer.

The Vice-Chair: Mr Bisson confuses me sometimes.

Mr Brown: Never. Just to pick up very briefly: There is no definition of "sustainability" in this act, in the regulations or in the manuals and we can't find it. You are making that point. Virtually every presenter who comes before us is making that point and it's causing all of us, no matter what perspective you come at this from, great concern.

What I really wanted to do is pick up on your timber allocation. We are told that there's a 50% increase in available cutting available in this province. I don't know whether that's right, I don't know whether it's available in Mattawa, but that's the information that's coming before us.

What concerns us is that if that is the case there seem

to be no criteria for putting that out. There's talk about it will be done competitively, but we don't know what criteria will be used to rate that. We've heard suggestions even this morning about certainly local communities should be part of those criteria. We use the resources as close to the community it came from as possible.

I just wonder if you have some views. I think this is right. You would reflect on how those criteria should be employed.

Mr Brophy: Well, firstly, in my experience I've seen this problem be a problem for all three colours, all three parties: How do you issue a licence? My view is I don't know how you issue a licence. It's complicated. However you do it there will be problems. It's difficult. What I would like is a set of rules, like—

Mr Brown: The criteria.

Mr Brophy: The criteria. Whether there is a political decision that issues a licence—if that's the case, that's the case. But what we want is, we need a set of rules: Why do you get licences? As long as there's a set of rules, we may not like the rules, but it's better than no rules.

The Vice-Chair: Mr Ramsay, I think, wanted to ask a question too.

Mr Ramsay: Do you want to finish that?

Mr Brophy: Regarding the issue that you continued on about sustainability and about how much lumber there is available, the problem I guess we're all facing is there are 10 zillion trees in this province and we could cut them all in one year, but the next year we'd have a problem.

We need, I think jointly, to have a say with the ministry and hopefully in the long term we would like to be the deciders of our future. So if we think that we should have no forestry industry in 10 years and we're going to cut all the trees, well, that's not very smart and we won't do it, by the way, but give us the right to say how we're going to do it. That's what we're after. We're not stupid. You see, one of the important parts is we want our children to have jobs. We're not going to cut all the trees down and have no lumber at all.

Mr Ramsay: Michael, welcome, and thank you very much for your presentation. I'm really pleased to see you are involved in a local committee really wanting to take some charge of its own future. I think that's very important, and you talk about some of the mechanisms here. I'm the MPP from Timiskaming, as you know, who's lived through what we used to call the T-word down at Queen's Park, Temagami. It's still a bit of a movable feast but maybe the worst of that is over. But I think the answers are starting to be developed here.

I think what you're referring to in section 12 on local advisory committees and these forest management committees is basically the leap of faith I think governments have to do that maybe we didn't do soon enough when I was in government and really needs to come and even the MNR is not ready to do today, that is, move from advisory committees, which I think we should have in every forest management unit, to the day where local people will manage their own resource. I proposed that in 1986, looking at the template of the Algonquin Forestry

Authority as something that's workable when you have a tremendous clash of values, as we do, unfortunately, in the forest resource.

I guess this legislation tries to work with that and is flexible enough that maybe we can work our way through towards local autonomy, because you're right. I think you're right on and I think all of us, whether we're on the political side or just representing local citizens' groups, have to work for local control of our resources in northern Ontario.

Mr Brophy: To respond to that, the buzzword in business today is empowerment, and it seems to me that when you see companies like General Motors that had their problems and IBM that has had its problems, some companies have failed with their problems. The ones that are succeeding are the ones that empower the juniors, the province being the senior and the local areas being the juniors. We want that to continue. We really do support that concept. I've said it enough times today. The idea of empowerment, giving local people charge of their own affairs, makes sense, and we really want to be first off the mark in Mattawa.

The Vice-Chair: Thank you very much. We certainly appreciate your presentation. You were lucky that we were able to give you a bit of extra time.

Mr Brophy: Thank you very much.

The Vice-Chair: We do appreciate you coming here, and also Mr Levesque. Certainly you can be assured that your comments will be taken into serious consideration before we begin the clause-by-clause.

I ask again if Mr Isadore Roy has arrived. This committee then stands adjourned until 2 o'clock in the afternoon.

The committee recessed from 1147 to 1411.

NORMICK PERRON INC

The Vice-Chair: This committee continues its hearings on Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario.

I understand that you represent Normick Perron Inc., Mr Jackman. If you can introduce the other witnesses and then—I think you may have been here this morning—you have half an hour, and if you'd like to leave some room for questions and answers, we would appreciate that.

Mr Robert Jackman: Russell Williams is planning forester; and Alain King is our manager of operations; and Gerard Laforest is our director of forestry from our main office.

Normick operates two sawmills in northeastern Ontario, one in Cochrane and one in Kirkland Lake. These mills are critical to the economic stability of both these communities. Our sawmills are currently operating at 66% capacity, which represents approximately 825,000 cubic metres per annum.

Normick would like to express support to the government in its efforts to develop new legislation to replace the Crown Timber Act. We have made considerable changes in the way we practise forest management and this legislation better represents current practices and our

efforts towards developing sustainability. As a company, Normick has already begun to work on some of the initiatives outlined in this documentation and the Ministry of Natural Resources' Direction '90s.

We would like to express some concerns we have with provisions in the act that directly impact our sawmills' long-term viability.

I'll start with licensing: Long-term direct forest resource licensing is essential to Normick Perron. Currently, our mill requirements are satisfied through short-term licences and through open market purchases. As a result, our mills' wood requirements are primarily controlled by other licensees. This arrangement results in higher product costs and less flexibility, both in terms of resource planning and mill modernization. While we recognize the provisions in the act that deal with third-party licensing opportunities, we are concerned by the lack of strong legislative direction regarding direct long-term licensing to third parties.

The Crown Forest Sustainability Act needs a clear licensing mechanism to secure long-term tenure, or wood supply, for existing wood processing facilities which have historically operated under third-party licences, short-term crown licences or with purchased wood.

Best end use: As the demand for wood products increases and the overall supply decreases, particularly for sawlog material, it is essential that the structure of forest resource licensing include the principles of best end use.

We need strong legislation that directs the flow of forest resource products to and between processing facilities to ensure an optimum level of sustainability. If the government is serious about developing legislation that provides for the sustainability of our forest resources and our communities, it must address this issue in the Crown Forest Sustainability Act.

Time for review and submission: A deadline has been set for written submissions to the committee of August 26. We did not receive a copy of the regulations and manuals until August 10. Bill 171 is significant legislation affecting one of Ontario's most important industries. There are over 1,000 pages of documentation in the supporting manuals and regulations to the act, not including the decision of the Environmental Assessment Board on the class environmental assessment for timber management planning in Ontario. To understand the interactions between these documents and their implications, a longer review period is required.

This government has placed a priority on involving stakeholders in decisions that affect their livelihood. We urge that you consider your own policy principles and provide industry sufficient time to review and comment on this proposed legislation.

In conclusion, Normick Perron fully supports the Ontario Lumber Manufacturers' Association's position on the Crown Forest Sustainability Act.

Normick's goal is to become a world-class leader in the sawmilling industry. In order to achieve this goal, we need long-term sustainability of wood supply. This will enable us to make the necessary investments to ensure

sustainability of our mills, our communities and our forest resources.

At this point, I'd like to introduce Alain King. Alain would like to provide some examples and explanations which refocus on some of the points that I brought forward.

Mr Alain King: Good afternoon. This morning I jotted down a few notes that I'd like to pass on to the committee this afternoon. Like I said, I'd like to make a brief summary of where both mills stand and the present problems that we are facing at Normick.

To start with, the mill in Cochrane operates under 50% direct licensing. The rest of its wood requirements come from 15% third-party licences and 35% open-market-purchased wood. The Kirkland Lake mill operates with 45% open-market-purchased wood, with the remaining supply coming all from third-party licences. Normick is not against open-market wood, but the combination of a high volume of open-market purchases and short-term third-party licences creates an insecurity of wood flow to our mills.

I would like to explain how third-party licences work through Normick. Currently, in the province of Ontario, there are many processing facilities that have surplus timber. This surplus, in some circumstances, represents species or volumes that the prime licensee cannot utilize. There are instances where prime licensees require chips, not roundwood. With a guaranteed chip supply, the prime licensee allows Normick to gain access to round timber through a short-term third-party licence. Normick's concern with these arrangements is that if MNR does not provide a long-term licence for surplus wood or creates a situation where the prime licensee controls part of our wood supply, it will leave us with short-term third-party licensing.

In the past, the Crown Timber Act did not provide for third-party operators to obtain direct long-term licences, so that we could compete on an equal base with prime licensees. At present, the third-party licensees do not have any security of wood supply. Prime licensees can change our third-party wood supply licence into an open-market scenario at their own discretion.

1420

How does the Crown Forest Sustainability Act address the following inequities: first, supply existing processing facilities to capacity before constructing new processing facilities; second, ensure surplus wood does not become a profit centre for prime licensees at the expense of a third-party operator; thirdly, ensure that wood that is surplus to prime licensees will be directed to third-party licensees through a long-term licensing mechanism?

Another point that we have to highlight is the importance of best end use at our mills. MNR cannot propose sustainability of forest resources and not make any provisions for best end use. At present, Normick is promoting exchanges with prime licensees to achieve best end use. This is crucial for the efficiency of our mills. Although we have achieved best end use to a certain level, it could be maximized furthermore. Where does the forest sustainability act provide provisions to direct forest

resources licensees to maximize best end-use principles?

On this, I turn the table over to the panel if you have any questions.

The Vice-Chair: The other gentlemen, are you finished with your presentation, then?

Mr Gerard Laforest: Yes.

Mr Russell Williams: Yes.

Mr Bisson: I have a very quick question in regard to best end use. We share a common problem with some of the smaller operators in my riding out of Timmins. We're trying to get larger-sized lumber to sell to the mining industry; the name of Little John Enterprises and a few others, and I think you might have dealt with them at one time out of Cochrane.

I support the idea of being able to exchange wood from one unit to another, but that's easier said than done. That's a fairly complicated thing because you're in the business and needing it, Malette needs it, Abitibi needs another kind. How would you propose that you do that and who would make the decision about where the wood goes? That's basically what I'm asking you: How and who decides?

Mr King: First of all, it's obvious that the wood of a unit should be utilized in that unit, as a first priority. If there is no facility to take in that wood resource, it could be directed somewhere else.

Where do we stand as far as best end use? Well, first of all, we consider that no one should be harvesting roundwood if there would be chips available. Supply them with that wood supply. The second point, with all the different arrangements on the units, in some parts of the province the wood supply is not of equal quality to another unit. In some facilities, the quality is not the main issue, where exchanges can be promoted to again promote efficiency of mills.

Mr Bisson: I still don't see how that would work, but I'll pass it on to Mr Wood.

Mr Wood: Just a couple of brief questions there: In the manuals that were being drafted, I'm just curious if your company was involved, if you had foresters involved before the legislation was brought into the House and since that time involved in helping to write the manuals.

Mr King: Normick has reviewed a little bit the memos and notes that accompany the guidelines for the act through our association, the Ontario Lumber Manufacturers' Association.

Mr Wood: The other comment that I wanted to make: I don't know if you were here this morning when a comment was made by one of the other presenters that \$10 million was going to be available for trust funds. I just want to make sure on the record that the trust accounts will be \$60 million and the special purpose account will be \$35 million, which will give a total of \$95 million, and the forest futures fund will be \$6 million, which is roughly a little more than \$100 million. So I just wanted to correct that and make sure that it's on there so that there's no misunderstanding. It's not \$10 million; it's \$100 million-plus.

Mr Bisson: Just to follow up on what I asked you initially on the switch, the problem is that, for an example, Abitibi up around Cochrane has the FMA with a lot of spruce on it, black spruce. Oversize spruce, would you suggest be chipped or would you want to promote some sort of a system where—I know Normick does already—you get some of that oversize into your mill. I'm wondering, how would you make this happen? Because I know the end users of the product are unhappy, people who are looking to get wood, some of the smaller operators, smaller than you people, are trying to get wood and not able to get any because it's either the FMAs that have it all or third-party agreements such as what you have in Cochrane with Abitibi. How would you deal with that? That's what I'm asking.

Mr Williams: One of the things that we're here to discuss is, that's what we want addressed in the Crown Forest Sustainability Act—

Mr Bisson: How would you do it, though?

Mr Williams: Well, the mechanisms are there right now, they're just not strong enough and they don't present a clear enough direction on how to proceed. You have the two sections, 23 and 24, for how licences can be issued, and then 31, 32 and 35 deal with transfers, amendments and the subsequent double-licensing of the same area, but the actual details regarding long-term tenure, wood supply, the mechanisms for reviewing existing licences to see what kind of surplus there is, given processing facilities' needs, and how we can then go about and modify those licences to put the best end-use scenarios into place—

Mr Bisson: But I'm asking you to be proactive. Tell me how to do it.

Mr Williams: Yes, okay. Then what you have to do is you have to design within the act or the regulations, add to it a step-by-step process that says, if as a result of the timber management planning processes surpluses are declared within that process on the sustainability of the wood supply and what not, then a process automatically kicks in that says, okay, great, we can then take some kind of mechanism under 35 that says we can already double-license the same area, and put tenure to it and automatically you have the long-term tenure, and then at the same time you can deal with the best end use. If it's a processing facility, that they have a licence right now and they're not using the roundwood, then the roundwood can flow to the processing facility that can use it and some kind of an exchange arrangement be put into place so that both facilities have long-term guaranteed supplies of the forest resource to run their facilities on.

Mr Bisson: Would you do as proposed in a competitive bid system or would you rather the ministry, through who needs it most, makes the decision? Because as proposed in the act, my understanding would be a competitive bid. I'm looking for a nod from our ministry people. That's the way I understand it.

Mr Williams: Again, if you're looking for a competitive bid on that, and it says that, yes, any new licences that come up, a competitive bid, but—

Mr Bisson: No, surpluses.

Mr Williams: —in the back section of the act—

Mr Bisson: Declared surpluses.

Mr Williams: Yes, but you're going to slide the FMAs right underneath. Section 23 says the existing licences slide underneath that. So there's not going to be a competitive section for the FMAs. They've already had the licenses, and what we're looking for is that it might not necessarily be the best end use for that particular processing facility to be the prime licensee.

Mr Ramsay: I'd like to pursue this, because I think it's time we started to listen to the industry about doing this. I think the crown should take some stronger direction in making sure we get best end use out of our resource.

I know it's been very frustrating for a lot of the smaller companies that don't have their FMAs when a lot of the large companies have this forest management agreement that basically gives them tenure to a large chunk of the forest, and there may be surplus wood there, either because it's the age class or the different species, that they can't use and yet you could very well use that in your area. Why couldn't you almost, in a sense, superimpose one FMA upon another for different species and type of wood, so that you could have some tenure on the same land and the crown would have to almost act as a mediator to make sure, "Okay, this is what's spelled out. You're getting this sort of species in this area; the other people are getting this species and age class in another area," and work out the cutting plans and everything and use the same land to the best use and direct the wood to the best mill?

I don't see why this is such a problem. I think it's going to take a strong crown intervention to maybe sometimes knock heads a little bit, to say, "Listen, industry, we're not going to accept this any more, the big guys picking on the little guys," because they have been in a position to have an FMA, and make sure there's enough wood there and the best use of the wood for everybody in the forest.

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When I read this, I think maybe there might be some flexibility in this act to maybe accomplish this in the future. I hope there is. It's something I know I'm going to work with our critic, Mike Brown, to see that there is so that everybody who's working in the bush can get a share of it and we have the best use we can of the resource. It's important.

It's a shame when we see a surplus of chips in northern Ontario and that we see—and sometimes it's because of collective bargaining agreements etc.—that so much of the wood has to be taken off these lands by this particular labour group and go to this mill, and so beautiful roundwood is being chipped up into a mill, and it could have made some beautiful lumber, and yet we've got a surplus of chips that are a byproduct of other mills around, and they're suffering because they've got mountains of it, which is an environmental hazard and is just rotting but is of tremendous value. So we've really got to start to rationalize the flow of wood to get the best end use for all our resources.

I'm glad you brought this up. I say, continue the fight, and we'll certainly back you on that.

Mr King: I might add that the best end-use issue back five or six years ago in the mill in Cochrane, it wasn't perceived as being the main concern and at that time, because of the fact that we're in a unit that's way north, the quality and the size of wood is not there, the mill wasn't producing that much. We were at the break point where it wasn't feasible running it any more. We instigated best end use with prime licensees around us and that helped us pick up the mill production again to the point where right now we're feasible. We have to keep on promoting that because the day that we have to come back to the old scenario—well, we might again face the same situation that we did five or six years ago.

Mr Ramsay: Yes.

Mr Jackman: So it's not just the species; it's the size categories too and having some direct licensing. I guess you're not using a management boundary any more as a solid line and using the sustainability of forest resources. Sustainability of one of those resources is sawlogs, and if you take those sawlogs and direct them to different facilities when the resource is very constrained, then is that sustaining that resource? We feel that more direct licensing for that raw material to processing facilities like sawmills is really what's needed if you're moving forward on a platform of sustaining the forest resource.

Mr Ramsay: Good. Thank you.

Mr Carr: Thank you very much for the presentation. How many employees do you have now; do you know?

Mr King: At both facilities in Cochrane, we're 150 employees at the mills. Including the bush, you're looking at a workforce of about 250 in Cochrane. In Kirkland Lake, it would be around 125 altogether.

Mr Carr: Okay. You mention in here, I think, that you're at 66% capacity. Where is that—up? down?—over the last little while? How has it been over the last few years?

Mr King: Again, back a few years ago, the facility in Cochrane used to run on three shifts. Both facilities right now are on a two-shift basis. If we had the wood supply for both mills, without even doing one single investment in both mills we could probably generate 150 jobs tomorrow morning. But because of the fact that the wood is not directed through our mills, we're down to two shifts.

Mr Carr: And your big concern, of course, deals with the direction regarding the long-term licensing to third parties. What percentage would be in the same position as yourself with the third party? That may be a tough question to answer, but what percentage would be like that? Do you have any idea?

Mr Williams: Percentage.

Mr Carr: Yes.

Mr Williams: The ministry would be in a better position to answer that.

Mr Carr: I just wondered if it was common knowledge, if there was a ballpark figure. What I was getting at is, I wanted to basically see how many people are in

the same position as yourself with this concern. Your understanding is that there would be quite a few, then?

Mr King: For sure I know a couple of other ones.

Mr Carr: So it's hard to say.

Mr King: Again, MNR people would surely have better figures.

Mr Carr: Right. Just so you know, the government has said there's going to be another workshop to go through the manuals, and you mentioned your association was involved in the first go-round. I suspect you'll get your input to them for the second go-round, and when that comes up, obviously you'll be very concerned about that.

For a minute, let's just assume that not too much changes and the bill goes through as it is. What do you see happening to your company, based on the way the bill is now without any changes? What do you envision happening?

Mr King: Well, the way that we're operating right now, with no long-term wood security, it's very hard to convince our major stakeholders to say, "Well, we're going to invest in the facilities in northern Ontario." Every single investment project that we have has to be backed up with supply. If the act doesn't change anything within there that would guarantee Normick's operation, long-term licensing, I don't see any changes from the direction that we're taking today as far as investing in the mill, keeping it as minimum as possible and just keeping it operational until we see changes.

Mr Carr: So this would help long-term security but you're still going to be in a viable position if it goes through as is, is what you're saying.

Mr King: Again, third-party licences will have to be clearly defined, what they are. We are right now in a process of having a third-party licence under one of our operations being turned over on an open-market scenario. On that, to us, we're taking a really big step backwards.

The Vice-Chair: Chris will ask a quick question.

Mr Hodgson: I just wanted to follow up on this sustainability. Do you think more local autonomy through citizens' groups that are envisioned under this act—should they be empowered to address this best end use as one of the criteria of their empowerment? Would that work?

Mr Williams: I think that it could become part of the umbrella that they would operate under. If they're sitting in the community and the community is going to be their primary interest, maintaining that, then it would be in their best interest to definitely address the best end-use situation because that way it ensures the viability of all the different mills that might be in that particular community.

So, yeah. I don't know the scope of power that the MNR is planning to give these local citizens' committees and things like that, and the decision-making part of it, but they should certainly be involved in how to direct the wood as a result of the planning process.

The Vice-Chair: Thank you very much. We really appreciated your presence here, coming down to speak to

the committee. As you know, we have another week of hearings next week, Thunder Bay and Fort Frances, and then we'll be going to Toronto for the hearings there, and then clause-by-clause. So if in the interim you have further comments to make, please leave them with the clerk and he will distribute it to the committee.

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RON MAGEE

The Vice-Chair: The next presenter is Ron Magee, consultant forester, if you'd please come forward.

Mr Ron Magee: Good afternoon, Mr Chair and committee members. My name is Ron Magee. I live in Haileybury. I'd like to comment on how the legislation affects myself and some of my clients. I'm a forester, an ex-MNR forester, forestry tech and scaler. I've had over 10 years doing consulting work and trying to pursue one of my hobbies of practising forestry on private land. I presently own in excess of 600 acres of private land. There's 160 acres right here in the city of North Bay and I have a large chunk, over 200 acres, in the community of Black River-Matheson. I put two pieces of property under the Woodlands Improvement Act in excess of six years ago. They're free to grow and doing quite well.

Recently, I have participated in the environmental assessment as a witness for the industry in wood supply and old growth forest meetings. I was a contractor on the independent forest audit doing the Kirkland Lake and Chapleau districts. I'm a member of the comprehensive planning council in Temagami, the citizens' committee there, and have been on several other meetings and committees that escape me right now. My clients are mostly small land holders to very large land holders, first nations, Ministry of Natural Resources, doing silviculture consulting.

This presentation is as a forester and as a private land holder. A general comment on the legislation is, I like the flexibility and the assured dollars. Certainly as a ministry forester I recall having areas site-prepared and the trees all lined up and not knowing whether or not the funding was going to be there to plant it. I certainly hope this takes away some of that aggravation from the ministry staff.

The balance of my presentation is specifically focused on private land. I just got the regulations when I was in the Sault on Monday, and I've had to change somewhat the focus of my presentation. I thought that private land was going to be ignored, the crown timber on private land. Also in the Sault I heard that the managed forest tax rebate or some form of it will probably be reinstituted. I am very pleased with that. In the managed forest tax rebate system, there was a clause where if the owner owns the land and the crown owns the timber and a management plan was prepared, the owner of the property could make access to the tax rebate. I was on the bandwagon with several pieces of property where I owned all the trees and was just getting a management plan prepared for the all-trees-reserved property when the thing was cancelled.

I'd like to focus specifically on crown wood on private land, which is in the regulations and specifically the last

three pages—in fact, specifically the last two paragraphs. It gives me some hope that the crown does recognize that there is substantial wood out there and that the owner of the surface rights does maybe have some right to cut the wood.

I will describe the present situation, give some problems and maybe make some constructive suggestions on what can be done. Presently, in northern Ontario there's private land patented under various acts. There's the agricultural act where all timber belongs to the owner of the surface rights. The Veterans' Land Act is another one where the pine has been reserved to the crown. There is the Settlers' Pulpwood Protection Act where the pine was reserved for the crown but voided at a later date. Then under the Mining Act a tremendous amount of property patented in the Sudbury, Temagami—meaning the Cobalt camp—Kirkland Lake and Timmins district, was patented under the Mining Act as private but has crown timber on it.

Some of the earlier patents, just the pine was reserved up until 1918. From 1918 to 1955 all trees were reserved to the crown, but only in 1955 was it put on title that the crown has the right to practise forestry. Where the crown owns the timber it's in the act that the crown can enter upon and remove the trees.

My piece of property in Kirkland Lake district, the 200-acre one, was all-trees-reserved. I purchased it over 15 years ago for forestry purposes knowing that I'd have to pay stumpage to the crown when it was cut. As a surface rights owner, I've been involved with a mining company and negotiating for minimum damage to the crown trees, protecting trees the crown owns. I feel I have a stake in this property and I'm very pleased to see that in this it does say the owner may get the licence to cut it himself, because in Kirkland Lake district in the last several years, they've come down quite heavy saying that the wood will be licensed to someone who has an order-in-council licence in the management unit, and they will go in and cut the trees.

A pine release is available where pine only is reserved to the crown. It's generally granted without a problem. However, there's no mechanism in place for the owner of the surface rights to purchase the timber when all trees are reserved.

On private land, the EA does not apply. There's no formal notice necessary for cutting. There's a tremendous amount of crown wood on this patented land that is not presently in crown management unit calculations.

One of the problems with this type of land is boundaries, particularly an isolated piece of private property sitting in crown lands. Cutting has often taken place by the owner just by issuing a DCL to the person. Problems exist in keeping spruce separate from pine, especially if it's destined for the same mill. Some districts force you to separate the spruce and pine at the stump and only haul one at a time. Others work out a per cent and base the stumpage that way.

Generally in all classes of property where some or all of the trees are reserved for the crown, more and more of this is becoming residential. Certainly in Swastika, Kirkland Lake, Cobalt and the city of Timmins, more and

more people are building houses on this property where the trees belong to the crown. This of course gives problems when the person plants an ornamental tree or tree on their front lawn. The trees actually belong to the crown.

In fact, one of my larger clients has been planting trees for years at his own expense and the crown owns the trees. The trees now, a lot of them are ready for tending. Problems exist. How are they going to be tended? If and when the timber's cut, the crown, I assume, will expect stumpage on the property. Recently, they've made approaches to the MNR to go through the pine release and saying they'd like to be able to purchase all trees reserved, but of course the crown says, "There's pending legislation on this and we're busy and it takes a long time to search title," and a lot of things. This is not unique to the existing party. It's been going on for years, I think, through all existing three parties' reigns.

On the other side, maybe the person doesn't want the trees on their property. They say: "Get the trees off my property. Take your trees; they're using my nutrients." Or the crown owns a tree next to a person's house or cottage. It's going rotten. "Take your tree down. It might fall on my cottage." What would happen if such a tree fell down and did cause some damage?

In most cases, the land owner has put a road into his property, and cutting the timber helps with the road costs. So I'm very pleased to see this word in here where it says, the second last paragraph, that the land owner "may" get a licence to harvest the timber.

I'd like to focus in where it says, "with regeneration on his cost," the top of page 32, second line. Here we have the owner cutting crown trees and, I assume, paying full crown stumpage and going to have to pay to regenerate the land. I haven't skimmed through everything else, but is there a provision for the forest renewal part to be waived? Because here you have a land owner going to pay into their forest renewal kitty, and it appears that he's not going to have the right to draw on that forest renewal kitty to regenerate the land.

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Let's go one step further and say a company, such as Normick, owns a piece of property and it wishes to harvest it. It appears here that they'd have to do that at their own cost. I think there's a problem in the wording there or certainly the intent. Maybe someone has thought that the land owner is making a tremendous profit by harvesting his timber, and this is some way to take away the incentive for the guy to cut it himself or perhaps the excess profit that they may think is there.

I'd just caution by taking all the land in this category where the crown owns the timber and doing an allowable cut calculation, because some of it is not going to be available. A lot of people, this 100-acre parcel, they've brought in bulldozers and backhoes and created a park, probably not even knowing that they don't own the trees, and yet the crown has this sitting there. So to do a sustainable calc on what's out there will be very difficult.

There are some age problems; as you know, in a lot of cases the stuff is all roughly the same age. How do you do an allowable cut calc on that and make it sustainable?

Also a great problem is that many of the owners—registered owners, I comment—are dead or they are two thirds owned by one person and one third by another, or three sevenths by one and the balance by somebody else who was deceased 30, 40 years ago and the family is continuing to pay the taxes. So if you expect to deal with the owner, in a lot of cases, there's a tremendous burden on somebody to bring the ownership up to date.

Another specific recommendation I'd like to make is to change the act, whatever act it is, if it's the Land Titles Act, so that the owner can purchase all the trees, or void it in cases, or conversely, get the crown some money to purchase some of these surface rights and get them out of the way. What a way for even a forester to add thousands of acres to a working group by just a few thousand dollars. Personally, I've offered several pieces of property to the crown after I've cut them over, and they say they have no money—160 acres for \$5,000 to \$6,000 with limited access is roughly the going price.

There are a lot of acres. Certainly in the Sudbury area, we're talking hundreds of thousands of acres. In Temagami, Kirkland Lake and Timmins, we're talking tens of thousands of acres with wood on that are not presently showing up in management plans.

That finishes my presentation. I'd be glad to take any questions.

Mr Ramsay: Welcome, Ron. Thanks for making your presentation. You've really brought up an area of discussion that quite frankly, until I really started to look at this act, I didn't really know existed. I always thought of northern Ontario as being about 90% crown land and 10% patented land, and thought when it came to wood, basically the ownership was fairly obvious there. But you've certainly brought up a whole new area here, and you pointed out the regulations here that talk about this.

You mentioned there just in the Sudbury-Temagami-Kirkland Lake area that maybe it's 10,000 acres of this. Do you have any idea what percentage of maybe northern Ontario is in this situation that it's crown wood on patented land? It's got to be part of the 10%, if I'm right, 90 and 10. I think I'm right. I don't know what that is, but what amount of wood are we really talking about in, say, percentage terms or total land base and then maybe a wood base?

Mr Magee: David, I've never run it through. Each district has its own individual numbers, and sometimes their numbers aren't correct—they have it as private land, but private land where all trees are reserved, where pine is reserved and where the patentee owns all the timber—and are a little bit fuzzy. That could be put together from district offices or regional offices.

Mr Ramsay: Would the district offices have that information? It's not just in land titles, but they would also know that yes, it's patented land but—

Mr Magee: The MNR keeps records but we always caution people, "Pitter-patter to the land titles office to check it before you start making rash assumptions," or something like that.

Kirkland Lake has done a recent search of private land and it's reasonably accurate. I still keep in my back

pocket in most districts a couple of places where there are glaring errors and I still do know of some places where they haven't got it down properly.

Mr Ramsay: You were suggesting towards the end in your presentation that you in the past have offered, say, a 160-acre parcel of land after you had forest-logged it, basically at a very nominal price, just to see if, to simplify things, the land would go back to the crown. Is that sort of a general suggestion you might have to simplify this, that maybe the crown should be sort of buying these pieces up and so we would increase the crown reserve of wood? Would this be a—

Mr Magee: That's an obvious solution. Being very familiar with the Kirkland Lake district, having been a unit forester there, there are a lot of isolated pieces of property which, from a management point of view, are painful: the boundary, the guy wants access. They do come for sale from time to time and I think it's a reasonable way.

Certainly there is a mechanism in place for the crown to take possession of this land again. As the nursery expanded, there were several pieces of property that the Ministry of Government Services purchased and they now appear in the land titles office as owned by the Ministry of Government Services and they show on the maps as crown land.

Mr Ramsay: Do I have time for another quick one, or did you have another one, Mike?

Mr Brown: Go ahead.

Mr Ramsay: I suppose this is the very opposite direction, of course, to what the crown wants to do because by this act and many other acts of government, government wants to get out of the business of doing things, and this would be consistent with that in that basically they'd like to see the private sector play a bigger part in forestry. We've seen that over the years from MNR and other ministries. But I guess what you're saying, as far as management, by having all these different owners out there and everybody having maybe different plans for their land, it might be more beneficial for the province if we took this land under ownership so we could have better management of the forest resource.

Mr Magee: From a forester's point of view for the crown, I would say that would help. A caution that has been brought to my case several times, certainly in the town of Cobalt, there are always pieces of property that are for sale for back taxes. If the crown were to pick up pieces of property in organized municipalities, that municipality loses the tax base and it's rather scary.

Mr Hodgson: My background's municipal. I'm glad to hear you've been following—you were in Sault Ste Marie and you heard the government's announcement on the private lands. That was made in the House to me earlier this year in June.

Mr Magee: Thank you. I'm glad you were there because that's the only way I would have heard it and I would have been thumping here, "Let's get the managed forest tax rebate back in the system somehow."

Mr Hodgson: I think you're probably still going to have to because they haven't set that to template. I

haven't seen it yet, but I'm sure that it's going to be in September some time.

This is a—

Mr Ramsay: Is this true?

Mr Hodgson: What was that?

Mr Ramsay: We're getting the tax rebate back?

Mr Hodgson: The template for the private lands is what was announced on Monday morning and again in the House back in June, as I understand it.

Mr Magee: Meaning that forestry would be recognized?

Mr Hodgson: I would hope so, but you'll have to ask the government. They're the ones who will have to make the announcement. Mr Hampton was the one who made the announcement in the House back in June and, again, the parliamentary assistant made it on Monday.

Mr Wood: You're talking about the template or the blueprint?

Mr Hodgson: Yes. Is that suitable to the opposition?

Mr Brown: No, we're just trying to figure this out.

Mr Hodgson: Okay. This is a whole section, like David, that I didn't really know existed in the north until the other day I got asking about it. Have you read the manual? Did you get a copy of the manual?

Mr Magee: I'm glad you gave me a chance to speak on that. I, like everybody else, was shortchanged. I picked up copies of everything in the Sault at 2 o'clock in the afternoon and I was assured that mine was in the mail. I got handed mine here at two o'clock today. Somehow people thought I lived in North Bay because I own property here. No, I haven't read the manual.

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Mr Hodgson: Okay. There's a section—hopefully you can get it today—it's in the regulations we made under Bill 171, the Crown Forests Sustainability Act. It's on page 14 of that. I'd be interested in your comments when you've read it, pages 14, 15 and 16. I don't know enough about this area—in fact, I asked some of the ministry staff what they were talking about in regard to this. I understand that there are different patents all over the place, as you described, but in order to make one universal rule it's going to be difficult because it's under different acts and there are different conditions on all kinds of pieces of land.

Any suggestions that you have, if you could send them after you've read that, I'd appreciate as well.

Mr Magee: Just to make a comment on that: One of the problems is that under the current land title system, a lot of the wording from the original deed is not brought forward, and a lot of lawyers and people whose properties change hands several times aren't familiar with what's on the original deed. Quite often that deed is not in that land titles office or has to be searched through the archives in Toronto.

Mr Hodgson: Quite an onerous task. Thank you.

Mr Wood: I'm just curious. In your opening remarks you mentioned that you were a former MNR employee for a number of years?

Mr Magee: Yes.

Mr Wood: And you've been involved in contract work in auditing?

Mr Magee: Yes, I participated in that independent fourth audit, yes.

Mr Wood: Okay. You mentioned before you were at Sault Ste Marie Monday morning and you were aware of the manuals that were there?

Mr Magee: Yes. Yes, I got mine at two o'clock that day, I'd just like to say.

Mr Wood: That day? Okay.

Mr Magee: That day.

Mr Wood: Okay. Very good. I thought you meant two o'clock this afternoon.

Mr Magee: Well, when I specifically asked for something I got it two o'clock on Monday, but the package I should have got showed up at two o'clock today.

Mr Wood: There's no doubt about it, there's been a lot of—being a former MNR employee, you realize that there's a lot of work that has gone in there in consultation with the different interest groups out there, the industry, the rod-and-gun clubs, the various groups, in order to be able to come up with the legislation, the manuals and the regulations, and it's quite time-consuming. I'm actually amazed that we did get them out by the end of July and they're available for people to look through while they make their presentations.

You've covered a lot of ground as far as abandoned land is concerned. I know that throughout Cochrane North, if you drive along Highway 11, you see a lot of land that was cleared 30, 40 years ago with the intention of having farm land and is basically abandoned now; the houses are falling down, and whatever sheds they had. I'm just curious as to what you think could be possibly done with that. I know we don't address it in Bill 171, but I'm just curious, being a forester yourself, what you think we should be doing with that, if you want to comment on it; or if not, that's fine.

Mr Magee: No, I comment on it in the sense that it's probably got good access, which makes it a place where whoever owns it should consider spending money on forestry because those trees are going to be accessible to a mill. We all wonder sometimes, way back in the boonies, why we're practising forestry, especially with more and more stringent road considerations.

The Vice-Chair: That completes that part of the hearings. We certainly appreciate your presence and also your keen interest that you brought to this hearing. I'm sure this bill is important for you and you will continue to follow its development with great interest. If you have any further comments, please be in touch with our clerk.

GRANT FOREST PRODUCTS CORP

The Vice-Chair: The next presenter is Grant Forest Products and, according to my sheet here, is Mr Fleet.

Mr Bob Fleet: My name is Bob Fleet and I work for Grant Forest Products in Englehart, Ontario. Grant Forest Products is an oriented strandboard mill, and I believe we employ 250 people at the mill site and an additional 250

people in trucking, logging and so forth. I'd like to thank you for the opportunity to speak to you today, and I would like to start by saying that generally Grant Forest Products is very supportive of the content of Bill 171.

One of my concerns at the outset is the amount of time that the industry or anybody making a presentation really had available to them to get ready. Despite very good cooperation from Ministry of Natural Resources staff—I know they're working very hard to get the manuals produced and everything else—I don't think there's enough of them to go around for the task at hand. In my case, I received the manuals by Purolator at 4 o'clock Friday afternoon. That really left yesterday and today to read over 1,500 pages of material. As a quick calculation, that's about 45 seconds a page. So I haven't had a chance to read everything yet.

Mr Bisson: Speed-reading.

Mr Fleet: I can't speed-read even at 45 seconds.

One of the things I did have a chance to read and why I think this point is so important is because a quote in the front of the Forest Management Planning Manual says:

"These manuals should be viewed as works in progress. They represent almost three decades of progress in the evolution of forest and natural resource policy, accountability, planning, information collection on management effects and effectiveness monitoring, public involvement, evaluation, reporting, new timber harvesting practices and the pressing need for new enabling legislation."

I just don't think 45 seconds a page really does 30 years of work justice.

Anyway, having said that, the first point I'd like to make is with respect to subsection 23(1) and subsection 35(1) of Bill 171, and those would be sustainable forest licences and licences on the same land.

By and large, Grant Forest Products supports this concept. This would be the concept where one forest company has a licence to harvest one part of an area or one species from an area and another forest company has a licence to harvest another part of the same area or another species from that area.

If I could encourage the committee with respect to directing the implementation of those two sections, I would strongly encourage them to look only at the concept of working group licences, not species licences, and there's a difference. Trees don't grow in the forest in uniform blocks. You don't have all pine, then all poplar, then all spruce. You have an area which is predominantly pine with some poplar and spruce or an area which is predominantly poplar with some pine and so forth.

Having had the experience of trying to administer species licences when I worked for the Ministry of Natural Resources, it's rather a nightmare. What happens is you have difficulties with respect to enforcing the environmental side. If there is damage to streams or creeks, if there are penalties for utilization and so forth and so on, if you have two or three companies operating on the same ground at the same time, you give us the opportunity to point a finger at the other company.

What I would strongly suggest is that on an area,

which would be a licensed area or a management unit, you have two or three companies all with rights to the working groups on those areas and you make the companies sort out the arrangements for the purchase of the incidental wood between themselves, such that if I had a licence on the same land as somebody else and I was interested in poplar, I'd be responsible somehow to market the pine that I cut to the licensee on the same management unit and they would have the responsibility to market to me the poplar that they didn't want. Having us travel the same piece of ground with three pieces of equipment and so forth and so on is quite horribly inefficient and does make it difficult for the crown to administer.

A second concern that I have is with respect to paragraph 67(1)12, "prescribing matters on which licensees shall endeavour to agree under subsection 35(2)." Basically what I'm concerned about is that as a company, we harvest close to one million tonnes of poplar a year through various means. We are harvesting as third parties on FMAs, we have our own licences on crown units and we purchase wood from the open market, such that my recent count before I came to the table here is that I have operations or I am purchasing wood from 98 separate licences.

1510

Under the old Crown Timber Act, there was the provision for the party that had the prime licence to charge royalties to a third party, which would be grants in the case of somebody who had a licence to harvest the spruce. The royalties that we are being requested to charge, simply because somebody else was there first, because the conifer industry grew up first, and the royalties that we're being asked to pay to companies that have prime licences are extraordinary and in many cases they surpass what we're paying to the crown for crown charges, for crown dues, right now. That's why I think my company supports the concept of licences on the same land so much.

But my keenest advice is that under paragraph 67(1)12 prescribing matters where we must agree—and I think some of those are the same concerns Normick might have had—the crown has to be absolutely instrumental in making sure that what were traditionally known of as third parties, people who are stuck currently under the Crown Timber Act in a third-party situation—we're being, in my opinion, ransomed to pay royalties. We don't know what the money is used for. Theoretically, I'll be paying upwards of \$1.5 million a year, not to the crown but to other forest companies, because they hold the licence. We don't know what we're getting for our money.

The third point I'd like to make, then, under part VII of the act, under "Remedies and Enforcement," where there's provision for \$1-million penalties, that caught my eye, the idea that there may be \$1-million penalties levied against industry for certain things. The only thing I'd like people to think about is, well, why \$1 million in the first place? Secondly, will the \$1-million penalties be levied on the basis of the severity of an infraction or will it be levied on the basis of a person's ability to pay? Is this just a \$1-million penalty that's going to be levied against

the large companies, and the independent operators and such don't ever get charged \$1 million? What's the relationship there and why is it \$1 million?

Secondly, I think it's probably going to end up much like the death penalty in its implementation. People will be very, very reluctant to ever use it because it's so severe. There has to be something different than a \$1-million penalty for failing to obey a stop-work order. When I worked for the crown, we were reluctant to levy fines if it got over \$10,000 in some cases. It's just something to think about, I suppose.

The fourth point I'd like to make is that in section 29, annual area charges, and then again in subsection 67(1), area charges and forestry futures charges, not only are there no provisions for refunding these moneys to the logging industry, but it specifically says that there will not be refunds.

I know of at least one example where we have held a licence now for three years. We've had to pay the area charges on those licences but we've never been issued an approval to commence logging. The crown continues to collect the area charges. In all likelihood we'll never be allowed to harvest, but we have to diligently pay the area charges or we'll lose the licence, and the crown is collecting this money. In my mind, it's a little bit immoral.

A second part of the area charges goes a little bit to some other section in the legislation, if I understood it, about defined purposes. The trend in society today seems to be moving in the direction of areas which are banned from logging, for other purposes, such as for the protection of tourism or for the protection of cottages or to protect my backyard, which is fine, and we understand that's the way society is going. I think it would be in the crown's interest to also make provisions, by defining purposes in this act, to collect the area charges which would have come from the logging industry, from the tourist outfitter or from the cottage association. It may temper their requests for 10 townships for their own use when all they need is one. There's no buffering mechanism in there now. The way the whole thing is working is, come in with an extreme position and you'll get something you wanted, whereas if you got that position and you had to pay, you couldn't possibly afford to if you also had to pay area charges.

The fifth point I'd like to make is with respect to the matter of crown timber on patent land, which was some of the matter that Mr Magee was talking to. I see in the Forest Management Planning Manual that it very specifically states that it is a management planning manual for crown forests on crown land, so once again we have these orphaned trees.

There's an abundance, particularly in the northeast corner of this province, of patent land with crown trees on it, and it would be my position that this timber should be regulated so that it can be harvested on a sustained basis.

That is the purpose of the act. Right now it's being mined. People can go and cut this timber. It's not controlled by any type of professional forester's calculations in terms of amount. It's quite frankly being mined. It

should be regulated, and this is, in my opinion, the opportunity to do that.

I guess those are my concerns.

Mr Hodgson: I enjoyed your presentation. There are two areas I'd like a little more detail on. One was the two licensees on FMAs or on crown units and how you pay a fee to the first party. In a lot of instances, isn't that to pay for roads that are in and the costs that you wouldn't have to bear?

Mr Fleet: No. Road fees are on top of that. We're paying something called a royalty.

Mr Hodgson: A royalty to the holder of the licence?

Mr Fleet: To the holder of the licence, and it's charged per tonne, just as though we were paying stumpage, and in some cases it exceeds what we pay in stumpage.

Mr Hodgson: So they're making a profit on the fact that they had the licence first.

Mr Fleet: Yes.

Mr Hodgson: Okay. That's interesting. And the remedy on that is to have the crown have to specify that out in the particular section that details that.

Mr Fleet: Yes, and it says in the regulations, if I understand them and I'm reading them correctly, we can do that.

Mr Hodgson: Yes, that's the way I read it.

Mr Fleet: I'm just encouraging the crown to be very tough on that one.

Mr Hodgson: Okay. The second area I'd just like you to go through in a bit more detail is the concept of area charges. We had the tourist outfitters here this morning, and they pointed out that a lot of the buffer zones around lakes are for environmental reasons for the habitat of the fish or the habitat protection and that the buffers around lakes aren't for the sole purpose of or in any way related to the tourism industry or to the cottage industry, but the buffers were put in by the province of Ontario to ensure a provincial interest in the water quality in the lake habitat. Are you suggesting that they weren't put in that way? You're an ex-MNR official.

Mr Fleet: No. Some were put in for those reasons, and those are very legitimate reasons, for the good of society.

Mr Hodgson: But there are other areas that are put in just for a buffer zone for tourism purposes and—

Mr Fleet: Sure, there are areas that are put in to protect tourist outfitters and to protect cottage associations and cottagers, and those are legitimate reasons. It's just that it's revenue lost to the crown, and my thinking is that the legitimacy of the requests and the magnitude of the areas that are being requested by other parties would possibly get a little bit smaller, freeing up more timber for the industry, if they had to pay the area charges.

The concern is that those area charges and those forestry futures charges are for things like fire protection and insect infestation, and those very areas that we're protecting are the areas which are going to be the high-hazard areas for fire and the high-hazard areas for insect infestation later on as the trees get overmature and fall down.

Mr Hodgson: Is that clearly defined right now when a buffer is set up, for what purpose it's being set up?

Mr Fleet: No.

Mr Hodgson: Could I go in and look at a map that has a buffer in it and ascertain the purposes why that buffer was placed?

Mr Fleet: You could find some which are very clearly single-purpose buffers, but you would find many that are multiple-purpose buffers, some that would protect both the cottagers and the water quality. You get into—

Mr Hodgson: So you're into a grey area. How would you apportion the costs?

Mr Fleet: I'd leave that up to the crown. It's simply something that could be done as a percentage, just a fixed per cent.

Mr Hodgson: I see. Okay.

1520

Mr Bisson: I need some clarification on something you have said in your presentation. First of all, welcome; always nice to see you, Bob. We've had the opportunity to do business in the past. You used to be one of our foresters out of the ministry out of Timmins and we always did good work with you. Best of luck in the private sector.

Now that I've set you up and we've associated each other, I'll ask you the question. In the point you make about paying area charges on unused land, I'm not quite sure I follow what you're getting at. Are you saying that you have licences under Grant waferboard or Grant lumber for wood that you'll never cut and you're paying the licence? I'm not quite sure I know what you're getting at.

Mr Fleet: Essentially, yes. My point is twofold, but the first point is yes, there are licences which are issued to Grant Forest Products. Under an order-in-council licence you can get a multi-year licence, and then the crown's control over harvest is that it must issue annually an approval to commence logging under that order-in-council licence.

We have held a licence, I'm not positive but I believe for three years, and for a number of reasons the crown has been unable to issue an approval to commence logging. Meanwhile, we are paying area charges on that area. I think the way things are going in that particular area, because there are other issues—tourism and cottaging and so forth and so on—we'll likely never be permitted to harvest in that area.

Mr Bisson: So given the ability, you would cut the timber, but you can't cut the timber because it's up—

Mr Fleet: The timber is good, but there are other social reasons why the crown is reluctant.

Mr Bisson: You can't cut it.

Mr Fleet: They're not reluctant to collect the area charges. My point is, I think that's having your cake and eating it too.

Mr Bisson: Yes, I hear what you're saying. I wasn't following what you were getting at, but now I understand what you were getting at.

The other thing you raise is an interesting one, licens-

ing by work groups. You were saying that you support the concept that within the particular management area, you could have more than one licensee.

Mr Fleet: Absolutely.

Mr Bisson: It's a good idea to deal with a lot of the problems we've dealt with in the past in regard to people trying to find wood that they can't get their hands on. But I wonder how you do that so that each user pays a fair share of both the area charges and—well, the stumpage is fairly easy, but the area charges ahead.

I'm just going to use an example. We'll take somebody's FMA, Abitibi-Price, let's say, out of Iroquois Falls. If that was the case, Normick Perron, I know, gets some poplar out of that particular FMA and I think they get some oversize spruce. How would they pay a fair share of that area charge? If they're getting the lumber off of it and have a licence to cut on the other FMA, how do we really know, because we don't have a really good sense of exactly what's there.

Mr Fleet: I would hope that the licences on the same area are long-term licences, not identical to an FMA but hopefully conceptually something along that lines, 15- or 20- or 10-year or whatever. When I suggest that you license by working group, then, the company which would be licensed, the poplar working group, would pay the area charges for the amount of area on that forest which would be in the poplar working group and the company that was issued the licence for the conifer or the pine or the spruce working group would pay the area charges for the amount of area on that particular management unit.

Mr Bisson: So what you're saying is that you're talking about both FMA and crown units, doing that in both?

Mr Fleet: Yes, because if I'm reading the legislation correctly, really the terminology of FMA and such disappears when we go to the Crown Forest Sustainability Act.

Mr Bisson: It does. Just so I follow you, what you're saying is that what you would do is you would look at that area, you would say: "That's predominantly poplar. We can draw that out on a map"—

Mr Fleet: The forest resource inventory maps will tell you that, "These areas are predominantly poplar and these areas are predominantly spruce."

Mr Bisson: Based on that geographical area, then you apply whatever that percentage is of the land mass against the entire parcel and then you figure out from there what the area charge would be.

Mr Fleet: Absolutely. And then, as I said earlier, we would be responsible for marketing the incidental species to the other people and they would do the same. We'd be dependent on them for the incidental product in their cut and they'd be dependent on us for the incidental product in our cut. We'd have to cooperate and work together.

Mr Bisson: Just a question in regard to the purpose clause and the definition of "sustainability." We've heard two sides of the argument. Some people—I wouldn't say a majority; a minority of people, I think—say we shouldn't try to define that in the legislation, because, as

we know, our technology changes etc and it would be fairly difficult to do that properly.

What's your view, as a person who is now in the private sector and somebody who also worked within the ministry, in regard to the whole perspective of saying, within the purpose clause, trying to define the purpose clause to a wider scope? Mostly I've heard from some people saying they want us to basically really define within the purpose clause what the whole idea of the bill is and to also define "sustainability." What's your view? Should we keep that in regulations, like keep the purpose clause as it is and not define "sustainability" in the legislation? What's your view?

Mr Fleet: I'm not sure where I'd see sustainability defined. I'd be comfortable with it defined in the legislation and I'm uncomfortable with the purposes being defined by regulation. My point, I think, is that at any point in time when you decide to start defining other purposes, such as tourism protection or something, that's going to be difficult. We might as well do it now. I mean, it's difficult enough to change the Crown Timber Act. If we're going after that, we might as well add these other things which I think in the long run are going to contribute to the true sustainability of the forests for all users.

Mr Ramsay: I was very intrigued by your suggestion with the joint licences, doing it by working group. This may start to solve some of the problems Normick Perron brought up.

I'm wondering now, do you think then the straight commercial trading of the species after companies harvest by working group—I agree with that principle—would get us the best end use from the free market? Does there need to be also some sort of screening process in that commercial transaction once the harvest has taken place so we make sure we're getting the right wood to the right place for best end use, or should we just leave it up to the commercial transactions that would happen?

Mr Fleet: I think it accommodates the goal of best end use and that, combined with additional conditions in the licence—for example, on many of our licences we're directed to sell the veneer log of a poplar tree to Norbord in Cochrane. Setting out a licence on a working group basis would still allow the crown to direct us to direct the veneer bolts to Norbord and in essence pursue best end use. Because we'd be interdependent, I think it would just naturally happen anyway.

Mr Ramsay: Yes. I think it's a good idea, and it's certainly worth a try.

In referring to some of what Ron Magee previously had brought up about the problem of the crown timber on private land, you suggested the crown regulate that. How would we regulate that? How would you suggest the crown regulate that, its timber on private land?

Mr Fleet: In the same manner that we regulate crown timber on crown land. With the timber which is on patent land, the titles to that land very clearly identify that that timber is crown timber. It's no different—for example, I own a home in Englehart and I own the surface rights but I do not own the mining rights. I know that. My lawyer told me that when I purchased the property. The people

who have bought this patent land know, or if their lawyers are good they should know, they do not own the rights to the timber.

There's no reason why, with an adequate inventory, the crown cannot say there's this much timber and we're going to harvest it over this much time and that means this much per year, because that's not happening, and yet the industry right now is relying on a certain amount of supply coming from private land. If things keep going the way they're going, all of a sudden the tap is going to turn off and someone is going to have to shut down.

Mr Ramsay: So your main concern about bringing this forward is the lack of supply, because you can't chase down—

Mr Fleet: The lack of predictable supply.

Mr Ramsay: Predictable supply, and a lot of this is because maybe you can't track down the owners or they don't want to deal with you, whatever, and so the supply's locked up.

Mr Fleet: I know this sounds a little radical, but it really doesn't involve the owners. The owners are the crown. It doesn't involve the owners of the land.

Mr Ramsay: Yes, I guess we all have a different sense of—I don't own the trees but I own the land, and we all have a sense of what ownership means. Yes, it can be somewhat controversial, but I'm sympathetic. We need to rectify the problem.

Mr Brown: I guess there's another issue I wanted to take up with you, because we talk about the trusts that are being set up, and one of the real issues, I think, in this whole debate is the reforestation issue. We look at, different species will require different stumpage fees.

Say we are harvesting relatively low-value poplar or birch, whatever, for, say, your company, and you're paying the 50-cent fee, but the goal of that management unit maybe is to bring it back to where it was in the first cut in that area where it was spruce or whatever. I'm wondering how we decide what species this land should be regenerated to and that the 50 cents that you're paying will actually do the job. Conceptually, I haven't got my head around that notion, and maybe you could help me, because it could be the opposite situation too, where you're paying \$6 and you'd be better off letting it go to poplar or birch.

1530

Mr Fleet: The first thing is, I think what species the particular cutover returns to is by and large defined in a forest management plan under the Forest Management Planning Manual. I did read that one, but there's also a silvicultural and operations manual, so there'd be some very clear direction in there too about, if you harvest this, then you'll bring it back to whatever. It may be that if you harvest poplar, you may not want to bring it back to poplar, you may want to bring it back to spruce.

I would think the way that would work in the bigger picture is on a management unit. With many of the poplar areas that are being harvested, the management plan and the manuals would direct that you'd reforest those with poplar, in which case the cost would be zero. A percentage of those, like you suggest, would be harvested and

the prescription may be to regenerate them to conifer. The cumulative 50 cents over the larger area where you had no cost should be able to be directed to those areas where you want to regenerate what was previously a poplar area to a conifer area. It wouldn't work the same on a conifer because you're going to have expenses on just about every acre. Therefore you need to pay more per acre. I'd be paying the \$6, if you would, but on a much smaller area, just sort of all prorated.

The Vice-Chair: Thank you very much, Mr Fleet, for your presentation. You obviously have a lot of experience in this field and we're glad that you shared that experience with the committee.

AURORA FRIENDS OF NATURE

The Vice-Chair: The final presenter for the day is Aurora Friends of Nature, represented by Klaus Wehrenberg.

Mr Klaus Wehrenberg: Thank you for the opportunity. I hope you are prepared for a slightly different point of view and a somewhat more critical presentation than what I've heard so far. Now, I'm not from the industry, I'm not a forester, I'm not a former MNR person etc, so I do not have the expertise that some of the people at the table had on the technical aspects of the legislation. My comments will be directed more at the structural philosophical approach that has been taken in the legislation.

I was somewhat concerned about the level of the draft bill, meaning we are discussing the first reading draft bill, yet I'm hearing that, unbeknownst to me, the manuals have been produced, the regulations are here. Am I behind the times or—

Mr Bisson: Second reading.

Mr Wehrenberg: Second reading? I went to the Queen's Printer and this is what I got, the first printing, the first reading.

The Vice-Chair: There's usually no change, okay? There's no change in terms of the document.

Mr Wehrenberg: It doesn't. All right. Anyway, I should introduce myself—

The Vice-Chair: Of the bill itself, but then there are all kinds of these documents, which are regulations and manuals.

Mr Wehrenberg: Right on, yes, but I have not considered any of those other documents, I want you to know.

I should introduce myself: Klaus Wehrenberg from Aurora. I'm representing Aurora Friends of Nature, which is an environmental organization based in Aurora. We have, at last count, approximately 50 members. Our organization is generally involved in land use planning issues etc, ecosystem types of issues. We have been involved in forest campaigns and so on. Most of our involvement would be very much at the local level, but we have been going to James Bay etc.

My own background: I was born in Germany and educated there to some degree, and I have been a Canadian citizen for 30 years. My relevant backgrounds are in forest-related industries and environmental activism and in law administration, which I do professionally. My father was a sawmill manager, and I went with him when

he inspected logs in the forest, so I very early got in touch with logging etc. I served a cabinetmaking apprenticeship and I've worked as carpenter and boatbuilder over here in Canada. As a youngster I earned pocket money by picking blueberries in the forest, and mushrooms and pine cones, and also got kindling wood out of there.

As an environmental activist, I'm a veteran of many forest campaigns—this is apart from the organization as well—provincial and national campaigns, including Temagami. We hug trees. We measured the trees in the middle of the winter as part of our involvement.

Interjections.

Mr Wehrenberg: I'm sorry?

The Vice-Chair: Disregard those interjections.

Mr Wehrenberg: Okay. In my 25-year career as a professional law administrator, I've helped research and draft regulations and found out in claim adjudication what makes for effective legislation and what education can do to increase compliance. So I feel that I am well qualified for the subject at hand and can represent our organization in this capacity. So let me go on to my comments.

It is recognized that the purpose of Bill 171 shifts the essence of crown forests from an object for exploitation into something akin to a biological-cultural asset, and that is very much appreciated. While the purpose is noble, however, the commitment to carrying out that purpose appears less so. That will be the subject of my remarks that follow.

Education: There is no specific reference to the need to educate the public and the industry, the harvesters, and for that matter the field staff of the Ministry of Natural Resources, on the value of the forest ecosystem and on harvesting practices. If the intent was to shift attitudes from a strictly human-centred approach to a holistic one, then a major shift in attitudes and understanding of natural processes is needed. That type of shift is not going to happen on its own. Education is the essential catalyst.

Public participation: In the formulation of policy, the Ministry of Natural Resources is given a free hand. It will be ministry staff who prepare the essential manuals that will have to reflect the public opinion which has led to the repeal of the Crown Timber Act, to some good degree over the resistance of ministry personnel.

How can one expect that manuals that are prepared by the same staff which was at the centre of so much public outcry will not continue to reflect the attitudes of the staff who were very much a part of the cause of the exercise? Without public participation in the formulation of the text of those manuals, we fear that we have very much a case of the foxes minding the chicken coop.

Now, I gathered from previous conversations here that in fact there was input. My concern is that there was no provision in the act to make that a mandatory component. There needs to be a provision that mandates a public participation process as part of the formulation and amending of any policy on forest practices, if for no other reason. The forests practices are the centre of this act, I believe. A further provision should relate to ready

access by the public of records that have to be made and kept under the act.

1540

Enforceability: There are several reasons why we believe that the bill will not be an effective base for enforcement. Firstly, the statement of purpose contains one key word, "sustainability," yet there is no definition of this term, and that definition would have to be in the act. Definitions abound in many international contexts and even in documents of the Ministry of Natural Resources. The one which we prefer is the one signed by Canada in 1992 under the United Nations Convention on Biodiversity. We repeat it here:

"Sustainable use is the use of components of biodiversity in a way and at a rate that does not lead to the long-term decline of biodiversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations."

That is what we signed in 1992.

What could be more in the interests of the general public and the enforceability of this bill than the inclusion of such a definition, or is there some interest at play that would prefer not to see this bill enforceable? We have to wonder.

Secondly, there are several manuals to be prepared under this bill. None of the manuals have regulatory status, hence no legal teeth.

Thirdly, none of the manuals are required to be prepared with uniform base principles that are set out in the bill. Do the legislators not have principles?

Further, the Forest Operations and Silvicultural Manual can vary from region to region, which in a legal context could provide for unending contrasting arguments served up on a platter courtesy of the very ministry that was meant to provide for enforcement of the bill. All of the arguments would be equally legitimate, as all of the manuals are prepared by supposed experts on the subject and under the same umbrella legislation.

Monitoring: The bill makes no provision for an independent monitoring agency. That means independent of the industry and the Ministry of Natural Resources. If such an agency does not function under this legislation, then the public can be excused for continued mistrust. The parties who have previously been responsible, and still are, for the administration of forest practices cannot be expected to change their attitudes and commitments, especially not without a substantial educational component, as pointed out above.

Performance bonds: In order to have meaningful financial and enforcement clout in the land use context, the logging companies should be asked to post performance bonds. Such provision might do away with the need to worry about non-performance altogether, or at least substantially.

Community sustainability: The provision that logs are to be processed in Canada does not address the sustainability of the economic base of the local communities in the area where harvesting takes place. It will also be advisable, in our opinion, that the bill go beyond the concern for primary processing into how secondary

processing can serve the long-term viability of northern communities. One way that could be accomplished would be by making it possible to derive seed funding for secondary industry in the form of grants or loans from harvesting fees.

Summary: Our above comments reflect our disappointment with the current draft bill. We make no apology for expressing our impression that while the bill was meant to deal with sustainability of the forest ecosystem, it appears more designed to deal with the economic sustainability of logging industry interests and the sanctity of the turf and secrecy of the Ministry of Natural Resources. I am very strong on this, I admit.

The bill in its current form also represents a disservice to the people of Ontario. Its substance does not do justice to the prevailing public opinion on how to safeguard the multiple non-economic values of a forest. We are hoping for substantial changes to give teeth to the bill and to make us believe that what is intended can actually be attained.

Mr Wood: Thank you very much for coming forward with your presentation. You've covered a lot of territory.

Mr Wehrenberg: Yes. Would you please speak up? I don't hear in one ear, and I'm having trouble.

Mr Wood: Okay. Thank you very much for coming forward and making your presentation. You've got the same problem as I have. I had 30 years in a paper mill, so I've got problems with my ears as well. So I understand what you're talking about.

You've covered an enormous amount of material there. I just want to point out one thing before I get into questions. The manuals that have been produced will have the force of the law under the regulations that have been produced, so they will be binding by the regulations on how they're used out in the forestry.

You covered the area of education and public education. I just want to see what your comments would be as far as primary schools, starting in kindergarten, whether this should be part of the education program that the kids are taken out into the woods operations and show them what it's all about—I'm sure some of the younger teachers don't have a full knowledge of what is happening out there, especially northern Ontario, which has a large chunk of land—and how we should try better to educate the public on the ecosystem out there and the sustainability of the forest.

I was talking to a reporter from the *Nugget* earlier, saying, is the general public out there? I know we've had a lot of input as far as the manuals are concerned, as far as the writing of the legislation, from industry, from rod and gun clubs, from different interest groups out there, but how do we go about two points really, educating the kids at an early age, educating the teachers and educating the public?

Mr Wehrenberg: Do you want me to answer?

Mr Wood: Yes.

Mr Wehrenberg: We obviously have to head out in several directions. But the first priority at this time I believe has to be at the harvester's level, actually. I think I would like to see some mandatory education of those

people who are in the woods and who actually do the harvesting so they understand, much like—and I'm going back to my own country, I guess, or my original country—where a driver's licence cannot be obtained unless you have some knowledge about the motor. Now, we're not having any knowledge about the motor in the forest. This is not a fact of life out there yet.

I also believe a lot of Ministry of Natural Resources people don't have a full understanding of what ecosystem is all about: the functioning, the interrelated processes, the intricacies. Most professionals don't have a full understanding, I must admit. But you have to make more of an effort to get people to have a formal introduction to this subject and not to assume they have the knowledge by osmosis or something like that. I think there has to be some formal requirement on the part of ministry resource personnel, especially those hands-on people out there and so on, who have to show that in fact they have gone through education along those lines.

I know the foresters have, but there is updating needed too. But the loggers themselves, the harvesters, the scalers—for scalers it is maybe less important—but certainly all the people who are out there working in the forest, and the business people. They should have a licence, to prove that they know what this is all about, not just a business licence but to understand what they're getting into, why it is important to respect and so on.

Now, the kids, that is a matter of curricula at the educational institutions, like teachers, teachers' colleges, university courses and so on. You basically look after components in the curricula of general education in the schools up to secondary level and then colleges and so on so this type of thing is guaranteed to be there at one stage of their lives, of the people who are being educated.

Mr Wood: Just one more brief question: You're from Aurora. I have a brother who lives in Schomberg, which is very close to Aurora. The makeup of your committee is from that immediate area, or are they spread out?

Mr Wehrenberg: Yes, we had even a member or two from the Schomberg area. We go central York region basically. We have people involved with the Oak Ridges moraine. I'm a provincial-appointed member of the Oak Ridges moraine effort, you know, the strategy we're trying to develop there. We have professors and we have people from various areas who are basically interested in the local scene, meaning land use and processes and so on.

Mr Frank Miclash (Kenora): Thank you for your presentation. Over the past couple of days we've heard a lot of input into local citizens' committees. As you know, part of the bill refers to that, where the minister may establish these committees to advise the minister. I'm just wondering how you would feel about the makeup of such committees as to who they would possibly involve, what kind of input they would have and any particular mandate they might have as well.

1550

Mr Wehrenberg: Basically, I gather they're established so that they have some meaning under the regulations, I guess. My concern isn't the citizens' committees

that are there after all these manuals and so have been established. My concern is with getting the right philosophy into the manuals, into the working documents. It was news to me that in fact they have become part of the regulatory framework, which is good news, and I commend you for that, because they do have to be. Otherwise you can't enforce these darn things.

But my concern, naturally, with manuals is that they can vary from region to region. I pointed that out. I don't know how you cope with that when you get into a court situation, because I can produce a manual from another region and say, "Now, listen, this is contradicted in this manual, or it's partly contradicted," and all of a sudden the judge, who doesn't know anything about this subject, must wonder what the heck is going on and how he can be clear about what direction the Ministry of Natural Resources wanted to go.

The citizens must have standing. They must not have to justify. This is a more important part than what they actually contribute. They must not have to justify their standing in these contexts; they must be accepted as bona fide members of the community that has an interest in this. Local citizens, I would imagine, have more than just forestry at heart. They probably want to know that tourism, ecotourism, for instance, can flourish in their community or that they themselves can go for walks in the woods without having to meet a bulldozer every five minutes, or clear-cuts, for that matter. So they have a great interest there. I think it should be a fairly free-flowing exercise.

There was a point that came up earlier on citizens. I think it was you who asked the question. There was a more specific point, and I can't remember what it was, but you asked something fairly specific of somebody. Whatever that was, I had a comment on it but it now has escaped me.

The main thing is that citizens have standing and don't get questioned as to why they're even there. That's the problem that we have now in the environmental movement.

Mr Miclash: Right.

Mr Wehrenberg: So as long as they have, then—

Mr Carr: Just along the same lines, I take it then that you feel the committees should be local and have local input?

Mr Wehrenberg: Yes, I'm concerned with the local communities, the boom and bust thing. We have to do away with that somehow, and I think this legislation should have served as more of a catalyst to do away with that. We should be going beyond just forestry. We have to think in terms of what it does to tourism and so on, and then the local committees can maybe—they have to understand, though, what is at issue. Some of them don't. They come to these committees, but they don't know what they are into in terms of how they could benefit the public.

Mr Carr: Did you have any input at all into the regulations? Did you have any dealings in the regulations?

Mr Wehrenberg: Did I have input?

Mr Carr: Yes.

Mr Wehrenberg: No, none. I've been out of the country for most of the past year. That has been my problem.

Mr Carr: And nobody from the group, nobody from your association either?

Mr Wehrenberg: No, I'm the one who is the lead person on this subject, and we have in fact lost three members of our executive. One is in Germany, one is in Manitoba, and I forget what happened to the third one—oh, down in Toronto, professionally displaced etc. So we have had quite an upheaval in our organization, but I happen to be the one who deals with forest issues, so it was no big problem there.

Mr Carr: I understand there are some concerns that you have and some of the changes you'd like to see, but do you think the bill as is is better than the status quo we have now?

Mr Wehrenberg: Oh, yes. The Crown Timber Act wasn't—it shifts, but in order to make sure that these shifts will come about, the enforceability has to be a big concern. It doesn't mean you're going to enforce every two minutes, but it has to be enforceable. In other words, the definition of "sustainability," which is a key definition in the act, has to be in there. If it isn't in the act, if it goes into regulations, it's immediately degraded in standing. Once you do that, you have done away with some of the key elements of this new legislation, the paradigm shift that we are envisioning here.

Mr Carr: This question you might not be able to answer. In listening to the various groups, industry and then some of the people representing the environmental movement, I don't think we're going to get a definition that they could agree on. Do you think we could get an agreement where there could be compromises between the two groups and that we could get a definition both sides would agree on, or what do you think?

Mr Wehrenberg: We have so many good examples of definitions already, as I pointed out, that I don't think there should be a problem. I think we all know what it means. The problem is that maybe some interests are afraid of having to face this on a day in, day out basis.

Mr Carr: I know you can find some agreement on the definition. Knowing the industry—and you might not know them—do you think you can get some agreement? I know there have been definitions. People have come forward and said, "This is the definition we'd like to see"—

Mr Wehrenberg: I think we could.

Mr Carr: —but industry hasn't. Do you think we could actually get one?

Mr Wehrenberg: I think we could sit down with industry and everybody and discuss this around the table and I think we could come up with something. I think we are all agreed that when you have a purpose in the act that includes a key term, "sustainability" in this case, it isn't enough. I think every lawyer will agree it isn't

enough to have that term in there. If you don't define it, you're going to have a heck of a time later in a court environment or enforcement environment. You can't work without definitions.

I think we can come to an agreement. I think what has to be agreed upon first of all is that there's a commitment to getting a definition. Then we'll work out the details. For that, all parties have to be around the table. But it can be done.

The Vice-Chair: You had a quick question, Mr Hodgson?

Mr Hodgson: No, I just have a point of procedure. Go ahead. I'll wait till after you finish up.

The Vice-Chair: Thank you very much for your presentation. We certainly appreciate your coming up here to give your viewpoint, and if you have anything in writing, perhaps you can leave it with the clerk.

Mr Wehrenberg: Yes. This is what I have. You wanted x number of copies. I don't have the capacity to produce that many.

The Vice-Chair: Just give it to the clerk. He will make the necessary arrangements.

Okay, Mr Hodgson, you had something to say? Could we have some order, please?

Mr Hodgson: I don't know if it's common, but in the information we have in the manuals, the page numbering is different than what the public have. I noticed the confusion when Mr Magee was speaking. He was referring to the regulation section, and the page numbering on that was different than the page numbering that I've received. I just wondered if that's common practice. I'm new at this. If it is, just let me know what people are referring to when they refer to a page number the public has received and it's different from what I've received. I can follow him.

The Vice-Chair: Do you have an answer to that, Mr Wood?

Mr Wood: We'll get back to him.

The Vice-Chair: The parliamentary assistant will get back to you with that information tomorrow.

In terms of other business, I just would like to remind you that you better be at the airport this evening. The plane leaves at 8:15 to the famous city of Kapuskasing. Also, tomorrow morning the proceedings will start at 9 o'clock, and they will be not in the place where we're staying but in the council chambers at city hall. I'm sure we'll be able to find that, and I'm told that it's possible to walk there.

Mr Ramsay: I missed the time. Did you say tonight what time we leave here?

The Vice-Chair: No. It will be up to you, I think, to get to the airport from here. The plane leaves at 8:15 tonight. Any other questions? Thank you very much. The committee stands adjourned until tomorrow morning at 9 o'clock in the council chamber.

The committee adjourned at 1558.

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 White, Drummond (Durham Centre ND)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South/-Sud ND) for Mr Wessenger

Carr, Gary (Oakville South/-Sud PC) for Mr Arnott

Fletcher, Derek (Guelph ND) for Mr White

Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson

Jamison, Norm (Norfolk ND) for Mr Mills

Miclash, Frank (Kenora L) for Mr Sorbara

Ramsay, David (Timiskaming L) for Mr Grandmaître

Wood, Len (Cochrane North/-Nord ND) for Mr Morrow

Also taking part / Autres participants et participantes:

Wood, Len, parliamentary assistant to Minister of Natural Resources

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Luski, Lorraine, research officer, Legislative Research Service



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**Legislative Assembly
of Ontario**

Third Session, 35th Parliament

**Assemblée législative
de l'Ontario**

Troisième session, 35^e législature

**Official Report
of Debates
(Hansard)**

Thursday 18 August 1994

**Journal
des débats
(Hansard)**

Jeudi 18 août 1994

**Standing committee on
general government**

Crown Forest
Sustainability Act, 1994

Chair: Michael A. Brown
Clerk: Franco Carrozza

**Comité permanent des
affaires gouvernementales**

Loi de 1994 sur la durabilité
des forêts de la Couronne

Président : Michael A. Brown
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENT

Thursday 18 August 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Jeudi 18 août 1994

The committee met at 0902 in the Civic Centre, Kapuskasing.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Vice-Chair (Mr Hans Daigeler): We're continuing the hearings of the standing committee on general government regarding Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario. Today we're in beautiful Kapuskasing, with the nice sunshine. I hope you're enjoying your brief stay. I'm sure the local member is pleased to have so many of his colleagues up here. I checked out his constituency office, and next door there's a bakery shop and I can vouch for the good croissants.

COCHRANE FORESTRY ASSOCIATION

The Vice-Chair: Anyway, to get back to the serious business at hand, the first presentation is the Cochrane Forestry Association, Mr Jean-Paul Lajeunesse, accompanied by Jane Fox. Vous pourrez vous adresser au comité en français ou en anglais ; c'est à vous. Il y a la traduction simultanée. Alors, vous avez 30 minutes pour faire votre présentation. Si vous laissez un peu de la période pour des questions et des réponses, ce sera apprécié. So if you'd also like to leave some time for questions and answers, you have 30 minutes. Go right ahead.

Mr Jean-Paul Lajeunesse: First of all, I'd like to introduce myself. I'm J.-P. Lajeunesse. I'm the president of the Cochrane Forestry Association. Next to me is Jane Fox. She's my assistant and she'll be reading the presentation here today.

The problem we're having in northern Ontario doesn't fix itself directly to our MPP, Mr Wood. It's a problem that we've been having for the last many years and it's not getting easier, as you probably know. We're hoping, here today, to sit down after this session and maybe you, as members, can come up with a solution. We're hoping to.

Ms Jane Fox: Good morning. What's happening to our major industry? The Cochrane Forestry Association started in April 1984 to meet the concerns of members in the forestry industry. Our association members include loggers, truckers, tree growers and tree planters. Our area

varies from Engelhart, Timmins, Longlac, Hearst, Kapuskasing and Cochrane.

Our association members are worried about where the wood industry is heading. We are working and going broke doing it. We have to cut back and it's costing us jobs. The members of the Cochrane Forestry Association are owner-operators who are as efficient as you can imagine, using all species of trees to their advantage.

With high operating costs like fuel, WCB, GST and parts, it seems like the wood industry will keep them in the recession until they change fields of employment or close down their operations. Since they average from 45 to 50 years of age, some with little savings or no pension funds, things look bleak.

There's one thing I can't understand: why lumber prices have never been so good and yet many struggle. The government is saying, "It's a private enterprise and we don't want to interfere." We need some hard decisions to be made soon. Our concern is in a letter of questionnaire which was sent to the honourable minister, Howard Hampton, about Bill 171.

We, as independent contractors doing the work, want to know how many restrictions we can handle. It seems like we're going backwards. Some 175,000 jobs are created in the forest industry in Ontario, directly and indirectly, with a gross of \$10 billion. Some of the proposals that the government is giving are not good. Trust funds with guaranteed funding for forest renewal sound okay, but the question is, how much of the stumpage collected will go directly into tree seedling planting, or will it go to another government agency?

We also see our equipment becoming obsolete in a few years. Banks are very nervous because of new equipment like processing heads which cut, delimb and slash to a desired length leaving cones and branches at the stumpage, and forwarders to bring the 16-foot logs out. These pieces of equipment cost around \$700,000. Just the head of a processing unit alone costs \$200,000. Those are not prices for us, especially not for three to four months of work per year.

In the 1960s, a Cochrane man invented this head. Then his patent was bought by Timmins Head and was fabricated right here in the north. The past owner told us last year that he was 25 years too early but the demand wasn't there, so the business closed, then the word "production" came in and volume was the key goal.

The government is imposing penalties for not complying with the new law; in other words, if companies are fined, we see ourselves being targeted to pay for the

damage or your contract is cancelled.

Forest companies are worried that invoices sent to the ministry Forest Renewal Trust fund, that their guaranteed return revenue won't be 100%, but the government through a penalty system will establish insufficient money available to fully regenerate forest areas.

A citizens' committee will be created to say how our forests are managed. That's good, as long as we have the right people making the decisions. The ministry is now looking at proposals to develop new mills and expand existing mills in northeastern Ontario. We, as members of the Cochrane Forestry Association, would like to know why there is a sudden surplus of wood and our licences are being decreased by 20%. How about increasing our existing permits so that we could make a decent living?

The wood flow going to Quebec every year is enough to keep a mill in the north going. Will this investigation that costs taxpayers thousands of dollars about wood going to Quebec mills with no stumpage paid be made public? Companies are using Quebec workers against us to make sure that prices stay low. It's only a one-way affair. Our right to negotiate is taken away. We can't invest in this province any more.

This province has no guilt whatsoever about how it helps Quebec financially; still, they're not pleased and want to separate. Ontario was once the richest province in resources. Now it's becoming a gamble to invest here.

A lot of families come here from Quebec and some still do, but they built farms, started businesses and raised their children here and are still proud to be buried in this province. On some occasions, Quebec subsidizes businesses to compete against ours. We have two tree seedling growers in the immediate area of Cochrane. One only grew a small portion of 10% and the other at 0% capacity.

We have to encourage manual planting, especially in black spruce, because we are so close to the tundra where nothing grows. The government is saying that the cost of planting is too high, that we cannot afford to do it any longer, and companies are doing that and they're saying that less and less will have to be planted every year as contracts have already been cancelled. With careful logging, trees left standing will naturally seed, but it takes about five years just for the seedlings to appear. Fifty years down the line, trees that are left standing will be overmature and die, and those naturally regenerated will be too small to harvest.

0910

Some infrastructure moneys should be given to make sure that neglected areas could be planted and create jobs in the forest industry. It would also please the environmental groups and ensure long-term employment in the industry.

Our members in the trucking industry are also in for a rough ride with Roadcheck '94. Forty-two per cent of trucks were placed out of service. It might have some more enforcements and also more fines. That means that vehicles have to be in top shape and traded in every few years. This raises the cost of operation and with existing competition from Quebec, plus the cost of insurance,

licensing and axle-weight regulation, tires and repairs, it makes it very difficult to stay in business.

We also feel that there's not enough support from our municipality and town businesses. It seems because we don't pay taxes directly that we are not part of the economy of growth in Cochrane. Local businesses know what's wrong, but they don't care.

Our recommendation to the committee: We would like to recommend an amendment to Bill 171 similar to the one that they have in British Columbia. It is called Bill 13, section 158.4. Section 158.4 authorizes the Lieutenant Governor to establish a mediation and arbitration system for use in resolving disputes under timber harvesting contracts and subcontracts. In addition, section 158.4 enables regulations imposing the system of mediation and arbitration for timber harvesting contracts and subcontracts that do not make provision or do not make adequate provision for mediation and arbitration.

We would like the ministry to consider an area for the association for the whole silviculture forestry process. We are willing to form partnerships with the native bands and create training programs to enable long-term employment.

For us to survive in northern Ontario, we have to work as a group and we are hoping to have the ministry working alongside us to create jobs in the Cochrane area.

The message that we're getting is that if you can't compete, get out. The Quebec government has realized that there is big bucks in forestry and millions in revenue and it's returning to their province, but Ontario hasn't realized it yet. We should be free to travel from province to province in this so-called free country, and I guess that when everyone is on social programs, the message will be sent.

I thank you for your time and your energy.

Mr Lajeunesse: Also the bill, it's already written here in this Forestry Act, Bill 140, and it was passed in 1979 here—no, in 1993. I'm sorry.

I talked to some associations in BC. They had a bit of problems the first year. By the second year, everything works so good now. It works fantastic. There are no more problems with companies and subcontractors. It was passed because I guess there was a problem and they passed it, and we're hoping that this government looks at it very seriously because we don't see any way that we can compete without having somebody to stand for the small guys in the forest industry. Thank you.

The Vice-Chair: Thank you very much. We'll start now with the questions and answers. First, the official opposition, Mr Brown or Mr Ramsay. Mr Ramsay.

Mr David Ramsay (Timiskaming): Did I hear you correctly when you referred to the wood that's going to Quebec? Coming from Timiskaming riding, I certainly get a lot of complaints about it, but you said that it goes to Quebec without stumpage being paid.

Mr Lajeunesse: There was a big investigation about this a few years back and we never heard nothing about it any more. So we're wondering if you can look into what's happened to that investigation. We know that some people were buying private lots and transferring crown land to private lots without paying the stumpage

and wood was flowing across, and nobody knew about it. It was going on for quite a bit of years. Unions and myself, as the association, wrote letters to our MPs and they did an investigation on this, but we never heard after this. It's a hush-hush story, it seems like, lately. So we would like to see why that was permitted. We feel that because of so much wood flowing to Quebec, we could subtract a little bit of that wood flow and give a little bit more to the local people. It sure would help them financially.

Mr Ramsay: Okay. Maybe when we get around to one of the government spokespeople, we could get that answer.

Mr Lajeunesse: Sure.

Mr Ramsay: The other thing you were speaking about was disputes. I just want to clarify whom the disputes you're talking about are between. I believe you're talking about the small contractors and maybe the bigger licence holders?

Mr Lajeunesse: Exactly.

Mr Ramsay: I guess some of the trouble is when some of the big companies just hire truckers and basically the price is—you're saying the margins are real tight. They don't offer you very much and so basically you've got almost two classes of people in forestry. You've got sort of the fat cats in some of the big companies who seem to be, when prices are high, doing well.

Mr Lajeunesse: Yes.

Mr Ramsay: Yet they still say to you, "It's so many dollars a tonne to haul it down to my mill," whatever it is, and you can hardly make a living. Is that what you're—

Mr Lajeunesse: Exactly, and they use brokers. The companies use brokers to protect themselves.

Mr Ramsay: So there's no WCB, for instance, in this sort of thing?

Mr Lajeunesse: As you know, there are unions. If you ever come against a broker, the broker dismisses you completely and the company just doesn't get accused of being a bad party. We see ourselves with this bill that we could say to the broker or the company, "Let's bring a mediator in and let's see what reason."

We lost jobs, even this spring at Quebec, behind the big tree limits. We had a loss of jobs when Tembec brought in its own subcontractor with its own equipment, and we knew very well that equipment was being subsidized by the companies, and we lost five jobs out of that. We can't compete against them all the way they are operating. We see ourselves going backwards very fast.

Also, as soon as you mention price to a company and he doesn't like it, they don't call you back. You're on a blacklist. We had a protest a few months ago. Some people know about it here. We had a 16% raise and on our protest we last—four members were dismissed with no excuse whatsoever, without any reason and they had just bought a brand-new truck and trailers and they're out in bad financial problems. We see that we've got no bargaining power whatsoever without this bill that we want passed here, Bill 13.

Mr Ramsay: Is there any more time, Mr Chair?

The Vice-Chair: Yes, Mr Ramsay.

Mr Ramsay: Okay. I'll just continue. Then what role would you see government playing then in trying to make sure that you have a fair share of the forest revenue? How would you see them getting involved in a crucial transaction?

Mr Lajeunesse: This bill explains everything. I gave a copy to her.

Mr Ramsay: The British Columbia bill?

Mr Lajeunesse: Yes. Also, MNR has an estimate of nine persons in this bill and they're just for arbitration and negotiating prices and that kind of stuff. They're hired by the ministry and they would come between two parties and ask questions, and sometimes it would help us financially.

I know that with the greenhouses here, they had a problem with them because their contract was cancelled this spring because of the new bill and the companies didn't want to buy the trees. They could have brought this arbitrator in and asked questions, and this bill gives you a year—

Ms Fox: Grace period.

Mr Lajeunesse: It's a grace period.

Mr Ramsay: I see.

Mr Lajeunesse: If you ever read this bill, Mr Ramsay, you'll see that it was passed in BC because they had serious problems and we have the same problem here too.

Mr Ramsay: Could I ask the Chair if copies of that bill could be made available to committee members?

The Vice-Chair: We will take a note.

Mr Ramsay: Thank you very much, Mr Chair.

0920

Mr Chris Hodgson (Victoria-Haliburton): Thank you for coming this morning. This is a concern that we've been bringing up from the very beginning. The area that I'm from has independents, we don't have a lot of mills. They're jobbers and they have no security. I know the problems involved in going to the bank without any tenure or any—

Interjection: Contracts.

Mr Hodgson: —guarantee that you're going to have a contract next year and the year after to pay down the amortized expenses. Even the cost of a truck has gotten quite expensive, with the regulations and the taxes that you mentioned and the insurance. A lot of people in our area aren't covered by WCB any more because they contracted out and that's the only way you can work. I would hate to see what you said, everybody going on social assistance. We're here in the government to try to avoid those things and find solutions.

In this bill there is a section, under section 35, and I thought it was being done consistently with Bill 13 from BC when I read this. This was one of our concerns originally.

I guess what you're saying is we should have more detail in it and more specifics in the regulations govern-

ing it. I'm interested to hear what the government side will say to this.

Do you see any other means, other than that? We've heard suggestions on tenure, if you're the contractor for the licensee of a crown block. Do you see any way to have any more security added to your business and not take away from the competitiveness or the bidding system or market—

Mr Lajeunesse: We see ourselves as an area directed through some groups. It doesn't matter if it has been an association, but some groups want to work together. It does protect ourselves against other problems and we have more powers to negotiate prices when the wood belongs to you, but it seems that the companies own about 90% of the wood in this province. It's pretty hard to sit against a company and the wood belongs on their licence and say, "Listen, we don't find this price being fair," or whatever the problem is. As soon as you mention the words, "Hey, we want to say something about it," you're dismissed and you're blacklisted and the first thing you know you're bankrupt.

Without this bill, we tried—I already spoke to unions. I'm sure to a lot of independent contractors the wood union is a scary thing. Lots of them want to stay more independent, that's where the independent loggers are.

I met with all kinds of groups. I went to Thunder Bay. I met with lawyers there, I met with lawyers in Toronto, I met with all kinds of consultants. We met with accounting firms in order to try to set up our association to be protected. We tried every ways and areas possible without this bill, and we see ourselves not being in business very long without this bill.

Mr Hodgson: Just a final question, Mr Chair, if I may: You mentioned the competition from Quebec coming in and taking your work. Are there any advantages that they get that you don't in terms of taxes or policies or subsidies? Is it a level playing field is what I'm after.

Mr Lajeunesse: Jane can answer that one.

Ms Fox: Being as I'm a direct tree seedling grower in Cochrane, Ontario, there was just a ministry bid put out this spring, in 1994, and it was directly out for competition. We couldn't compete because the Quebec growers are subsidized by the province of Quebec with their containers. They do not have to pay for their containers that the tree seedlings grow in, and also the peat that enables their medium to grow in. So you're looking at half of the cost right up front there that's subsidized through the province of Quebec which in the province of Ontario there is no subsidization program concerning reforestation to that degree, and being as our prices then are almost double because of their receiving 50% up front, you cannot compete with that. Indirectly, this one grower was given approximately 4.5 million tree seedlings out of our direct region alone, which hurt major greenhouses as myself.

As we mentioned in here, the two that are directly involved cannot compete because of the unfair competition. There's no level playing ground at all.

Mr Len Wood (Cochrane North): Just to start off,

I'd like to welcome everybody to Cochrane North and to the town of Kapuskasing. It's nice to have the committee hearings in places throughout northeastern Ontario, and we'll be going to northwestern Ontario. Welcome to Kapuskasing. I know it's going to be a short stay, but welcome and enjoy the nice sunshine while you're here.

I'm well aware of the concerns that you have, Jean-Paul, as the independent loggers, as well as the greenhouse growers. I know that in the Thunder Bay loggers' association there's some mediation and discussions that are taking place now to try to resolve some of the disputes. It's very similar there and in some other places as is happening in the Cochrane area. The feeling is that as the price of lumber goes fairly high, and it was very high, that the independent truckers and loggers are not benefitting from this. As a matter of fact, the fee that they're getting delivering the wood to the mills, whether it be Norboard, Normick Perron or Malette or Abitibi or whatever, is so low that they're all on the verge of losing their operations.

The BC amendment: I'm going to have to look further into that there and see how that can be incorporated into section 35 or whatever. There is an article there that might be able to cover that. I'm not sure. We'll have to look and see what kind of amendment we can collectively work out on that.

Your solution: Do you see a solution of pulling everybody together and collectively negotiating a price with the mills?

Mr Lajeunesse: Yes. As our association, we—certainly with an area to create more employment and secure ourselves. As you know, we only have a certain area on crown unit, and as you know, this is only for two or three months a year. It's not enough for ourselves and not enough security for ourselves, too. We want to work for the companies with a mediator, and we can ask questions why. We would like to ask the questions why we can't compete against Quebec. Why can't we afford that equipment that Quebec has? Why can't our health and safety compare to Quebec? You know, we have a guideline we have to follow. If you compare our lifestyle as independent contractors, you just go visit Fraserdale there and you go visit Normick Perron's bunkhouse and you go visit Ontario Hydro's bunkhouse—

Mr Wood: Living conditions, yes.

Mr Lajeunesse: I mean, you wouldn't even sleep there. You wouldn't walk in. That's the difference. Are we going back to the 1930s, that we have to start living in log houses and tents to compete and live? Because our lives are—like in the Cochrane area, it's only a one-industry town. It's only a one-industry town, and I think the government is forgetting that, that we've been doing this for four or five generations, and the natives, as you know, want to get into this too, and we don't want it to become another problem like we have in other places.

Mr Wood: Yes, and I'm well aware of the concerns that you have, and the day I got elected I was reminded that this government is going to have to do something better than what the two previous governments had.

Mr Lajeunesse: Exactly.

Mr Wood: And we haven't been able to accomplish the goal as yet.

Mr Lajeunesse: No.

Mr Wood: But the other question that was raised, that you raised on me, Quebec investigations that were taking place on stumpage and that back in 1988, 1989 and 1990, I don't have the end results of what transpired on that, but I know there are other questions that—Gilles Bisson wanted to ask a question.

The Vice-Chair: I think Mr Dadamo was going to ask a quick question first, and then if there's time for Mr Bisson.

Mr George Dadamo (Windsor-Sandwich): I'll be quick, about 30 seconds. I noticed in your presentation that you were talking about how much it costs to stay in this business, and you made mention about the \$700,000 for some of the equipment. Are you or some of your members working with outdated equipment at this time?

Mr Lajeunesse: We are, and we see ourselves as a new silviculture coming in with careful logging, that we have to get into it, and the banks, as you know, without that security, we can't compete. And, you see, the Quebec government is boosting those. We've got processing heads coming right over, and today we have a display in Abitibi limits, and it's Mont Clair, Quebec. It's not even Ontario. We can't manufacture this equipment, we can't even create nothing in that kind of equipment in northern Ontario, in Ontario. Why is it a problem? Why is Quebec so strongly with that kind of equipment and why can't our banks and our companies—even prices for parts, they're going 35% difference.

Mr Dadamo: Thank you.

The Vice-Chair: A quick question, Mr Bisson?

Mr Gilles Bisson (Cochrane South): One of the strengths of the bill that we're trying to accomplish is what you talked about at the very beginning, which is to guarantee that the money coming from the stumpage fees, that a share of that goes into your trust fund so that there is money for regeneration. I see that because our weakness has been on crown units. The FMAs have not been too bad, but we've got to do something with crowns, and between what we're doing on the trust fund should take care of that.

My question, however, is in regard to the punitive. You saw the fines as a punitive way of dealing with people who do things that they shouldn't do in the bush when it comes to reforestation, or not reforestation, but when it comes to logging. If you feel that fines are punitive, I know that you're responsible loggers, I know that the industry wants to do things right, I know that you try to do everything you can in order to make sure you do things the proper way, if you find that fines are punitive, how then would you deal with people who do not do things in the way that they should be if you don't do it with fines?

0930

Mr Lajeunesse: I believe that fines have to be there, but we feel that if the company is fined, who does the work on the company's limits? The independent contractor. If the company gets fined—

Mr Bisson: On an FMA.

Mr Lajeunesse: Yes sir, and it's \$15,000 or \$20,000, what's in it for myself? I'm the one doing the work. Would they come to me and say: "Well, that's okay, you just cost us \$15,000. That's okay, just keep on going. Never mind about it. We'll forget it"? We're targeted; our companies are targets as being responsible for doing the work on those limits, and without this bill we're dismissed without no reason at all.

Mr Bisson: But just so I understand—this is a point of clarification—are you saying that the fines should be levied on the person who did the infraction or on the company?

Mr Lajeunesse: No, the companies get fined right now, right?

Mr Bisson: Yes.

Mr Lajeunesse: The company's going to get fined and the company's going to turn around and they're going to dismiss us on those limits.

Mr Bisson: Oh, I see what you're getting at.

Mr Lajeunesse: Our company's going to be targeted.

The Vice-Chair: We certainly appreciated your presentation, so thank you very much for appearing before us. Certainly we will take your comments into careful consideration. The clerk does have a copy of the bill and he will make it available to the members of the committee a little bit later on.

Mr Lajeunesse: Thank you very much.

SPRUCE FALLS INC

The Vice-Chair: The next scheduled presenter, the mayor of Smooth Rock Falls, has cancelled. However, Mr Kent Virgo on behalf of Spruce Falls Inc, who was originally scheduled at 11:30, is here and he's willing to give that presentation now. If you'd like to come forward, you have 30 minutes. If you'd like to leave some time for questions and answers, the committee members would appreciate that.

Mr Kent Virgo: This is Mr Paul Krabbe, an assistant of mine, and he'll be helping out through parts of this presentation.

I welcome the opportunity to speak to you this morning on behalf of Spruce Falls Power and Paper Co. I have a lot to say. I would prefer not to have to read this to you, but in order to get all the information in, I'm going to have to basically go through it pretty quickly. I apologize for that, but that's the way things are.

In the way of an introduction, Spruce Falls Inc is a newsprint manufacturer with its mill located here in Kapuskasing, Ontario, where it's the primary employer, carrying a model payroll of about 800 employees these days. In 1991 the employees, and many of you already know this, of this company acquired controlling interest in the company, with members of the community and Tembec Inc holding minority shareholder positions.

Since that time, some \$160 million capital dollars have been spent on modernization, quality improvement projects, environmental projects as well as diversification, with a new stud mill currently being built and expected to come on stream next February some time.

These construction projects have resulted in several hundred other people being employed over the past few years above and beyond the number mentioned above. The company's business plan calls for a number of additional capital projects to provide for further diversification over the remainder of this decade.

Spruce Falls Inc and its predecessor, Spruce Falls Power and Paper Co, have managed a forest management agreement referred to as the Gordon Cosens Forest, some 1.6 million hectares, since 1980 and have held long-term licences covering essentially the same area since the 1920s when the first mill was built.

We have a proud tradition in timber management and forest renewal that goes back decades, and we've got the results to prove it. I would invite any of you who are interested at some other time to contact me and I'd be quite happy to go out and show you those results.

Spruce Falls shares with all Canadians important responsibilities to the environment in which we live and work. We support the responsible stewardship of resources, including forest, fish and aquatic habitat, wildlife, air, land and water. Responsible stewardship of our resources makes possible sustained economic development and an improved quality of life, which of course we're all interested in. In this spirit Spruce Falls believes and has adopted a set of policies and guidelines that will govern our attitude and action in environmental matters.

Although we share a great deal of common ground with regard to our concern for the environment, Spruce Falls Inc wishes to speak on the following issues raised in Bill 171 and the associated draft regulations that cause us some concern:

- (1) Inadequate opportunity for public consultation.
- (2) Increased uncertainty and its impact on business decisions.
- (3) Who will be in control of forest management?
- (4) Process rather than results orientation.
- (5) Rights of ownership of information.
- (6) Inequity.
- (7) Penalties: the wrong approach, the wrong message to be sending.

Inadequate opportunity for public consultation: To our knowledge, there was no consultation with the forest industry or anyone else outside government prior to the first reading of this act on June 1, 1994.

Given the importance of this legislation to the forest industry as it lays out the rules under which we are expected to operate for years to come; given the importance of the forest products industry to the economy of Ontario, especially that of northern Ontario and particularly the economy of single-industry communities like Kapuskasing; given that a significant portion of the supporting documentation, ie, the draft regulations and the four draft manuals, have only become available for review this month, and in fact given the distribution time frame, within the last week; given the volume of information involved and the importance of this information in providing details that further explain the government's intent as expressed in the legislation, notwithstanding that

the release of all this information has occurred during the traditional summer vacation period when many people are away from work, there has not been adequate review time allocated through the process prior to these hearings to provide for the kind of meaningful public consultation that we believe the Legislature of the day wants and needs.

Just for comparison purposes, compare that to the timber management planning process which, following the EA board's recent ruling, takes some 300 days of public consultation to write a timber management plan. This is the legislation under which all of this is supposed to be handled, and look at the consultation period involved.

Increased uncertainty and its potential impact on business decisions: This legislation as written increases the level of uncertainty for making business decisions involving large amounts of capital in the forest industry to an unprecedented degree. We are seriously concerned that this will negatively affect the business investment climate, particularly on an international level where investors have choices to make about where to put their money.

This could be particularly critical at a time when most Canadian banking institutions are shying away from investment exposure in the forest products sector. As I understand it, that's partly because of our performance in recent years. As you know, there's been a lot of red ink floating around.

0940

Some examples of areas in the legislation that increase the uncertainty for investing companies and for the existing forest products companies such as Spruce Falls Inc are:

(1) Inadequate definition of what is meant by the sustainability of crown forests, sections 1 and 2, and the ramifications where the minister shall not approve a management plan unless he or she is satisfied that it provides for the sustainability of the crown forest, subsection 8(2), or he or she may stop operations, section 52, if they're causing or likely to cause loss or damage that impairs or is likely to impair the sustainability of the crown forest.

This is of particular concern if it takes in each individual element that makes up a forest, since forests are naturally dynamic entities. This lack of definition provides all kinds of recourse for challenges by the environmentalists regarding many of the minister's decisions. A similar definition problem exists regarding forest ecosystems. The use of conceptual terms is very disconcerting to forest managers, and they're not defined in terms that managers can put their arms around and manage.

(2) Proposals that will, we believe, bring about some dramatic and fundamental changes to the tenure system: These in effect remove any form of security of wood supply in the long term from companies which have banked on it over the years. To be more specific, changes from forest management agreements, that is, documents that must be signed by two parties, to sustainable forest licences, sections 23 and 72, that can be unilaterally

changed by the government, sections 31 and 35, cause concern.

Security of tenure, through such things as evergreen clauses in agreements, represented a fundamental cornerstone in the development of forest management agreements. They recognize the need for security of supply through tenure, especially for mills where investments of hundreds of millions of dollars must be made regularly.

There is also some question here as to the value of a minister of the crown's signature on any form of agreement, such as the current FMAs recently signed by ministers of the current government, if they can simply change the form, intent and conditions of licensing.

We strongly recommend that the new legislation should not tamper with the existing tenure arrangements of the day. If best end use is the issue, let the market determine best end use.

(3) The fundamental move from timber management, which we spent five years and millions of dollars as an industry and government and other NGOs defending in the recent class EA, to forest management, a much broader concept, without any requirements for the government to focus on what its priorities are in what it expects to achieve from the forest, that is, separating needs from wants, and without any clear picture of who will be responsible for or expected to pay for what—it appears that this government intends over time to offload more of its responsibilities to manage components of the forest other than timber on to the forest products industry. This is not acceptable.

Some licensees under this act are expected to write forest management plans, subsection 9(1) and paragraph 23(2)1—not forest resource management plans, forest management plans—yet they only have the expertise in, direct interest in or control over the timber component of the forest. This does not make logical sense.

We are also troubled by the thought of the requirement for a new environmental assessment for forest management now, since that's something very different; in the industry's case at least, before the recent EA, it would've been different had it been forest management, but that was all argued out.

(4) The ability of government to change the manuals which detail the requirements unilaterally at any time means we are really unclear what the rules are under which we as businesses must operate now and in the future. This makes estimating projected operating costs, which are used to calculate returns on investment prior to making investment decisions, very uncertain; this in addition to the fact that we have not had a realistic opportunity to review the manuals that accompany this act.

The potentials for increased costs and reduced management flexibility are of greatest concern since they both affect returns on investment and competitiveness with other jurisdictions such as the southern US.

(5) The potential for an additional layer of appeals, section 11, above the issues resolution and appeal process already provided for as a result of the EA board ruling concerns us since it opens the door to further delays.

The changes provided for in this act will cause uncertainty which will negatively affect the business investment climate for the forest industry in Ontario.

Concerns over who will be in control of forest management on sustainable forest licences: The ability to make appropriate and timely forest or timber management decisions on sustainable forest licences will be negatively affected by changes that make it less clear who is in charge of overall management on the licence area.

Since the crown can place a licence on top of a licence, section 35 in this act, without a signed third-party agreement first, subsection 35(2), an element of control is taken out of the hands of the prime licensee. It would be very difficult, after the fact, to come to terms on third-party agreements as suggested in this act.

The result will be a cumbersome process with frequent requirements to go to mediation, with the minister making the final decision. Management control is, in effect, removed from those mandated to manage, and timely decisions become impossible.

Overall good forest or timber management will, we believe, be virtually impossible where no one party is clearly responsible for it, for a given forest.

Process rather than results orientation: The act is too process oriented rather than being results oriented.

We are concerned that the provisions of section 13 and clause 39(1)(a.1), whereby silvicultural and operations prescriptions will have to be tracked, will become an accounting and accountability nightmare. We do not wish to increase the office work and paper pushing required for forestry staff who should be spending more, not less, time in the bush.

We do believe in accountability and as an industry support the concept of independent audits. However, we wish to be judged based on our results in accomplishing agreed-upon goals such as maintaining or increasing the sustainable timber harvest or maintaining the number of hectares in each working group. These kind of results are understandable, measurable, accomplishable and not process oriented.

Planning is one area which we understand must be process oriented to enable adequate public participation. On the other hand, we do not see the need for redundancy in the process. One example of this is having annual work schedules approved by the minister, even when everything in them must already be approved by the minister through an approved forest or timber management plan. The annual work schedule is necessary but only as a source of information for government staff and for the public, outlining when certain already approved events will occur.

Concern over the rights of ownership of information: Sections 17 and 18 concern us in that the minister has virtually unlimited powers to demand the collection, collation, analysis etc of unlimited amounts of information and it may then be used by him or her as if it were the crown's information. This is particularly disconcerting since it is so open-ended given the move to forest management and the minister's ability to change the requirements outlined in the manuals at any time, poten-

tially increasing them. Information is a costly and valuable commodity.

Furthermore, there is concern that once this information gathered at one company's expense is in the hands of the minister, it is then essentially in the public domain and usable by others who are interested in the forest. This is neither fair nor proper from our perspective.

Inequity: There are a number of aspects of Bill 171 that will cause additional inequity among those who utilize the forest resource.

The change to utilizing total licensed area rather than productive forest area as the basis for calculating area charges is one example. The licensee who has a greater proportion of non-productive forest, that is, water and bogs etc, in his licence, will be inequitably affected. In fact the industry should pay area charges only on the land base they are permitted to harvest.

This is a really confusing part of the process, I might add, in that the package that we received for the workshops back on July 18, which outlined draft regulation summaries, talked about area charges being based on total area. Then when the regulations came out last week, it seems to have changed somewhat, at least for 1995.

But if you read regulation 31, you really can see it has been put together in a hurry. You can't even read it. It doesn't make sense the way it's written, and further, it's still unclear on this matter of what basis the area charges will be on because it only speaks about 1995. So this one's still really quite up in the air as far as we're concerned.

0950

Problems exist with the level of renewal charge proposed in the draft regulations, schedule 1, as they relate to aspen veneer operations, that is, 50 cents a cubic metre for poplar and white birch. For these partial cutting situations, the site preparation cost alone can be 20 times this number. Someone else will be subsidizing the renewal of these areas, and this is not fair or equitable. I have a letter from the Ministry of Natural Resources here suggesting that the additional cost of site preparation in these operations is more like \$11 a cubic metre as opposed to 50 cents a cubic metre.

Spruce Falls Inc, who have a long track record of good timber management, conceptually have problems with the idea of the forestry futures trust fund funding intensive stand management, in effect subsidizing other areas of the province which have perhaps done a poor job in timber management in the past to catch up. Furthermore, the use of this fund should not be left wide open to the discretion of the minister, paragraph 48(2)4. Why bother with all the other sections outlining the purpose for this fund if everything's left to the discretion of the minister in the end anyway?

Finally, Spruce Falls Inc views the direction that the government appears to be headed in with this legislation, which will, we believe, eventually see the offloading of broader forest management costs on an industry whose expertise and interest is primarily timber oriented, as particularly inequitable. If other segments of society, or society at large, wish to manage the forest for a broader

range of values, then they should be prepared to pay their share of the costs related to this management.

Increased penalties: the wrong message, the wrong approach: Given the large volume of wood and the associated large area harvested each year in this province, the industry has an excellent record of compliance with the laws and regulations related to its forest operations and concern for the sustainability of our forests.

This has been proven time and again in recent years as evidenced through such things as the results and ruling of the timber EA board; the results of the Ontario independent forest audit; the development of and subsequent implementation efforts regarding the OFIA codes of forest practice.

Looking after the forest in a sustainable way is something we have been doing for years. Among other things, the marketplace demands it today as evidenced by the push for certification. The Canadian Council of Forest Ministers is involved in this along with the CPPA and the Canadian Standards Association. They're heading in the direction of the ISO/4000 series, which is an environmental series of certifications. The financial community is also demanding it. Before large loans are made, besides having to make projections on costs, return on investment etc, environmental audits are becoming commonplace.

Finally, we are aware that the public are demanding it, because we who own Spruce Falls Inc are part of that public. What is often forgotten by those who come from elsewhere is that not only is the forest surrounding us our source of employment, for those of us living in small northern Ontario towns it is part of our culture and certainly a big part of our recreation, ie, in effect our playground. We have all kinds of reasons to wish to sustainably manage this resource.

Given all of this, we are very concerned that the dramatic increase in the offences and penalties under Bill 171 sends out the wrong kind of message to the public at large and the international community. We do not deserve this treatment, and our track record attests to this fact.

At this time we would be remiss in not pointing out that given the large extent of the industries woods operations and the adverse conditions, sometimes 40 below and the day-and-night operations under which we work in deep snow, there will be errors that occur from time to time.

We feel that we're already a very heavily regulated industry and we propose, in recognition of the fact that there will be some errors that occur, that some tolerances be built into the act actually: things like control orders, where you have a line of where you'd like to be, and tolerances, and your objective is to narrow those tolerances and get down to zero, but recognition, given the conditions, that there are going to be slips.

In summary, Spruce Falls Inc have a wide range of concerns about Bill 171 and its regulations and draft manuals. We ask that our concerns be given serious consideration during the clause-by-clause review of the legislation, regulations and manuals, and that appropriate modifications be made to address these concerns. If, due to the wide-ranging nature of these concerns, they cannot

be adequately addressed through amendments to Bill 171, we strongly recommend that it not be passed through third reading.

Overall, this legislation, although well-intentioned, is, as written, bad legislation that will, we believe, have a negative effect on the investment climate for the forest industry in Ontario, especially the more capital-intensive pulp and paper sector. This will hurt the economy of northern Ontario and its single-industry towns badly over the long run. Furthermore, this legislation will contribute very little to better forest management or to government credibility.

Mr Gary Carr (Oakville South): Thank you very much for your presentation. Page 10, I think, of your summary, says it all when it says if you can't get some of the changes you've talked about, the bill shouldn't be passed. I think it would be an understatement to say you've gone through a lot over the last little while. If the bill remains as is, what do you see happening to your situation?

Mr Virgo: As I think I said, it's going to become more and more difficult to get particularly the huge capital dollars from the international scene in to make major capital investments in modernization and diversification, which I think is essential for our survival in the long run. The potential for cost increases, limitations on management flexibility and so forth, we expect will increase our costs and slowly result in decline in the industry in northern Ontario.

Mr Carr: Thank you very much. Good luck.

Mr Wood: It's kind of interesting that today or tomorrow is the third anniversary of when we saved that mill from going down to about 200 people, that Kimberly-Clark and the New York Times had intended to do. We're basically just next door from where that happened.

I know I only have one question that I'm allowed to ask because of the time, but I understand that you're members of the Ontario Forest Industries Association, who were involved in writing the manuals.

The other comment I make is that I wanted to have a chance to talk to Jim Grayston concerning that letter, that he's no longer with the MNR, concerning that, and he didn't show up at the hearings in North Bay.

The regulations on area charges, I understand, have been amended in the right direction that you were commenting on. The changes that were made.

Mr Virgo: Beyond 1995?

Mr Wood: I'm talking about usable land. That's—

Mr Virgo: Still confusing.

Mr Wood: That's the change that was made. If you have any other comments, I'd be glad to hear them.

Mr Virgo: That's okay.

Mr Wood: Thank you.

The Vice-Chair: Did you want to say anything further? Mr Miclash.

Mr Frank Miclash (Kenora): Thank you very much, Chair, and thank you very much for your presentation as well, Kent.

On page 8 you spoke about other segments of society being prepared to pay their fair share in terms of the use of the forest areas. I was just wondering if you'd like to expand a bit on that as to what you mean by that particular statement.

Mr Virgo: Since we're in this act, I'm talking about licensees having to write forest management plans, and I emphasize again they're not forest resource management plans, because that's defining the act somewhat more narrowly. They're forest management plans. That covers the whole gamut, fish, wildlife, the whole business potentially, as far as we're concerned.

If people want wildlife, moose populations or fisheries, as a society they should be willing to pay what it takes to manage that wildlife. It shouldn't be the forest industry expected to pay that bill.

The Vice-Chair: Okay. Thank you very much. We certainly appreciate your presentation for the major company here in Kapuskasing. I understand you'll be coming as an individual a little bit later on after lunch, so thank you. We've received your written presentation as well and we'll certainly take it into consideration as we continue the hearings and in the clause-by-clause.

TOWN OF KAPUSKASING

The Vice-Chair: Mr Frank Albani for the town of Kapuskasing?

Mr René Piché: Mr Chairman, Mr Albani will be up in about two seconds. He's going to get some coffees for the committee.

The Vice-Chair: I understand you're the mayor.

Mr Piché: I'm René Piché, mayor of Kapuskasing. Joe Nadon, councillor, will be making the report, and Mr Frank Albani, town manager, will be with us in a few minutes.

The Vice-Chair: Did you want to start then?

Mr Piché: If we could wait, they should be up in a couple of minutes.

Mr Joe Nadon: We're just getting copies of it so you'll all be able to follow up.

Mr Piché: Yes, follow up on it.

The Vice-Chair: If anybody wants to get a coffee in the meantime, maybe a break then.

Mr Piché: We'll shake a few hands in the meantime.

The committee recessed from 1000 to 1004.

The Vice-Chair: I hope everybody got their copy then. In the meantime, again, we're continuing the hearings on Bill 171. Mr Mayor, I think you were in the midst of introducing your delegation. You introduced a councillor already. Aussi, je voulais mentionner qu'il y a la possibilité de traduction simultanée. Alors, si vous voulez vous exprimer en français, faites-le. You have half an hour, and if you'd like to leave some time for questions and answers, we'd appreciate that.

Mr Piché: Thank you for this opportunity. My name is René Piché, mayor of Kapuskasing. To my right is Frank Albani, manager of the town of Kapuskasing, and of course to my left is Joe Nadon, who is a councillor and also chairman of the economic development committee, who will make the presentation.

But I would like to start, Mr Chairman and members of the committee, by certainly welcoming you to Kapuskasing. This is a real honour for us that you chose our municipality to hear discussions on such an important bill. In the north, this has to be one of the most important matters in front of all of us, and you being here today—I see in full; there are no chairs empty—is really appreciated.

On behalf of the corporation of the town of Kapuskasing and its economic development committee, we appreciate the opportunity to speak to the standing committee on general government and provide comments and input with respect to the sustainability—why they put big words like this in there I don't know, but it's in there—of our forests in Ontario through Bill 171, An Act to revise the Crown Timber Act. Maybe that particular word I should have said in French and I think I would have got away with it, since you have the service with you here.

We've decided that in discussing this document we're all going to participate, which is the way to go. I would ask now for Mr Nadon to proceed further.

Mr Nadon: Forestry resources represent the backbone of industry in our area and it is important that we are assured that our major employers will have the resources to work with. We consider these public sessions important, as the rules and regulations advanced with this bill will have a lasting effect on our forestry sector. This is not a time for quick decisions but must be a time when clear and concise steps are taken to ensure that there is a caretaker of our forests.

For hundreds of years, residents of this province have reaped benefits from the forest and we must be committed to those same benefits for generations to come.

We consider it important that others who make a living from the forest, be it tourism, trapping or recreational opportunities, also be permitted to continue in an environment where adequate protection is provided, advocated and longevity assured. This vision must be kept in the forefront when considering this bill, as the associated benefits from this important resource are significant.

The goal that was first suggested by the Canada forest accord a couple of years ago for the management of our forests rationalizes the elements of such a vision. It states as follows:

“Our goal is to maintain and enhance the long-term health of our forest ecosystems, for the benefit of all living things provincially, nationally and globally, while providing environmental, economic, social and cultural opportunities for the benefit of present and future generations.”

Certainly this is a broad statement, as visions are meant to be, but it recognizes equally the importance of our forests, the need for sustainability and at the same time recognizes the benefits. The new proposed policy must reflect the circumstances and economic opportunities of today and the need for continued sustainability.

We note that some of the statements presented two years ago during public consultations have been incorporated into this proposed bill.

The local comments presented at that time included public education, reforestation, availability of funding for forestry caretaking, forest protection related to fire, disease etc, increased local input, public access, best end use and use of all species, funding for seedling planting, logical and sound environmental practices and research and development within industry, to name a few.

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We have been fortunate in Kapuskasing in that we are able to enjoy the pristine environment with our families and many households are economically stable due essentially to our main employer, Spruce Falls Inc, a newsprint manufacturer. The livelihood of the company and community relies on the forest.

Spruce Falls Inc has provided leadership as far as improvements to make its operation as environmentally sound as currently possible. The company's mission is to be a low-cost and profitable integrated forest products company while protecting the environment and creating positive long-term benefits. In the pursuit of this mission, it has established policies and guidelines in all phases of its operation, with such guidelines providing for responsible stewardship and sustained development of the resources. As a community, we are proud that this local company appreciates and recognizes the benefit it has derived from the natural resource.

The transportation of wood to the mill by water has ceased and the company has contributed financially to fish habitat improvements along the Kapuskasing River. Additionally, the company has participated in forest management by planting over six million trees, representing in 1993 more than was harvested, which is excellent.

It would be reassuring to know that other companies share the responsibility demonstrated by Spruce Falls Inc. The company's responsible stewardship of the resources makes sustained economic development possible and thus improved quality of life, as indicated in its environmental policy. Their approach to ensuring sustainability possibly exceeds that of simple timber management and addresses forest management.

Kapuskasing and area residents expect the most from our forest resource in terms of social and cultural enjoyment. We also expect to be able to raise our families in this part of the country, with many achieving that goal by working in jobs related to the forestry sector. It makes common sense that we sustain this natural resource at least at the same or improved level of usage.

The municipality does express concern with the fact that not all documentation has been made available to this consultation session. It is, however, difficult to reach conclusions because all facts pertaining to this draft regulation are not known.

Industries that manufacture from the forestry sector, such as Spruce Falls Inc, will no doubt have concerns related to this bill due to the uncertainties that have been presented, such as measurement or definition of sustainability, the change from timber to forest management and who is now responsible and, most importantly, the limitations it places on future viabilities of such companies. Will a company continue to have long-term

agreements or will security become an uncertainty due to the new agreement formats?

Mr Piché: Mr Chairman and members of the committee, we only received yesterday a package containing a lot of information. Even if we had stayed up all night, there was no way that we could go through it. So we ask the committee for the opportunity, after we have had the opportunity to go through these documents that were received—I haven't even seen them—to be able to come back in some way, whether by written form or otherwise, to further bring our views when we have had that opportunity.

The Vice-Chair: That completes your presentation?

Mr Piché: That completes the municipality's—

The Vice-Chair: Thank you very much. You certainly have that opportunity to further contribute in writing if you send that off to the clerk. We do have another week of hearings in the north and another week in Toronto and then clause-by-clause, so there's a little bit in between. I think it's the week of September 12 that we have the clause-by-clause. You can send it to the clerk, any comments that you may have.

Mr Wood: Thank you very much for your excellent presentation. You've covered a lot of area. I would make the comment that I worked at Spruce Falls for almost 30 years before being elected as a member. There's no doubt that under the previous owner, Kimberly-Clark, during its time it has contributed to the community and the community is there to—we can see it with our own eyes, even though, as I said to the other presenters, almost three years ago to the day we had meetings up here and finalized a deal where Spruce Falls would be owned by the employees in the community and Tembec, and we're looking forward to another 50, 60, 100 years of the company with the amount of money they've put in to modernize.

This legislation is intended to secure jobs in the forest industry, to add to jobs, create new jobs. Since the consultation started about four years ago leading up to Bill 171, over the last couple of months we've announced three new operations that are going to be able to operate from species that were considered to be weeds before, poplar and birch. So there's growth in the forest industry, and Spruce Falls has been cooperating with other companies, whether it be all the way to Cochrane, to Hearst, on third-party agreements and all working together.

I don't really have a question, other than to say that there's a lot of information out there, there's no doubt about it, but it's all as a result of a number of years—since I've been involved for pretty well four years—of consultation. We met with a large number of people, and the lumber industry, the Ontario Forest Industries Association, all of these groups have been involved in the drafting of the manuals that were put out to you. They will be involved in updating the manuals as a result of the hearings we're talking about. The process is open. As I say, it's an accumulation of a number of years of hearings and the environmental assessment, which we agreed to, the rules. The end result of that was that it would be binding on the government that the forest will be sustainable as an ecosystem, and we're willing to

listen to any amendments that are there.

I know some of the companies are concerned about the \$1-million penalty that the courts can levy if a company outright refuses to obey an order and continues to deliberately damage the forest. It can go through the courts and a fine can be levied up to \$1 million.

All the other fines that are there right now are covered under the timber act. They might be a little bit larger, but they're covered under the timber act of 1952.

So what we've tried to do is to bring this all together, information and studies over the last four years that I'm aware of and maybe even prior to that, and draft it into legislation that will lead us into the next 25, 30 years. I don't know if you want to comment on that. That's the basis of my remarks.

Mr Frank Albani: With respect Mr Len Wood's comments, the concerns of the municipality and also of the local residents within the 6/70 corridor is the fact that we've all gone through a very difficult situation. I believe everyone here is aware of the situation that did occur and what finally did come out of that by the province and the citizens getting together and purchasing the company, a viable company that we have today. We do not want that jeopardized in any way. We see if there is a major concern, and there are many major concerns on the part of the company, that it could have a real impact on them. In turn, we also want to see the forest enjoyed by all the citizens of Ontario. But they must be weighed equally, and the company's viability has to be strongly taken into consideration, because without a company, we don't have a Kapuskasing.

Mr Bisson: I'd like to just follow up on that, because that's certainly a concern I think all members of the committee share, that you want to have legislation that indeed makes sure we manage our forests properly but at the same time makes it affordable and economic so we can all reap the benefits of the economics of the forest.

I want to touch on two points, because I think they need to be clarified as the result of a couple of presentations, and you touched on them yourself. The first one is the question of tenure. That's come up not only here in Kapuskasing but other communities.

What will happen under this act is basically, as it is now under the existing legislation, the question of tenure is not found within the existing legislation, it's within the agreement that is signed between the company and the crown when it comes to the forest management agreement. What happens under the new legislation is that that would then be part of the licence, the agreement that would be signed between the company and the crown. So basically one reverts to the other. It's not in the legislation, it's in the actual licence. So you still have the tenure, you still have the 20 years, the same type of evergreening clause we had under the old legislation.

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The other thing, and it was touched upon, was that there was a fear that under section 31 the minister would be able to amend a licence under section 23. Let's call that the old FMA system. The same will hold true in this legislation, that the only way that can be done is by order

in council and through the Lieutenant Governor. It cannot be done at the whim of the minister without the same process that you would have now. Under the present legislation you can't do that and you couldn't do that under the new legislation. It has to do with the sustainability.

My question to you is this: You talked about sustainability, and in your presentation you've seen the term "sustainability" as something that's vague. We've purposely not put the definition of "sustainability" in the legislation. Our thinking is that "sustainability" is something that as a definition changes over time. As we learn to do our jobs better, as we understand the forests better, as technology changes, the definition of "sustainability" to a certain extent changes with it, and we're somewhat reluctant to put that in the legislation because of that. Are you arguing that we should define it in time today, or should we keep it in the regulations in order to make it reflect the changes of the times?

Mr Albani: I think that "sustainability" should be in there, but it should reflect the change of times—with the change of the times today—so it accommodates the fact of the use of the forest by all concerned, and also, the industry's been looked at very closely.

Mr Michael A. Brown (Algoma-Manitoulin): Certainly I'm very happy to be back in Kapuskasing again. I happen to represent a constituency that has much in common with this one in terms of our major employer in the Espanola area is E.B. Eddy, which is an integrated operation with sawmills and pulp and paper. I'm pleased to see that Spruce Falls is now becoming an integrated operation.

I think one of the key words we're concerned about is, nowhere in this legislation does it say anything about "competitive." I think in the legislation, as we heard, I think, from Spruce Falls just a few minutes ago, there is a concern that we may be so process-oriented that we're going to not end up with the result we want and the cost of doing that may not be, in a global economic market, what we need to compete.

I know that not only do a lot of your townsfolk and people in the surrounding area rely on Spruce Falls for employment, or indirectly to Spruce Falls for employment, I know they're also shareholders.

Mr Piché: That's right.

Mr Brown: They also have a great stake in the capital of this company. I'm just wondering, do people in the community understand about this bill? We've heard from Spruce Falls itself, the management level, but has there been an opportunity over the last while to discuss these issues?

Mr Piché: Unfortunately, we weren't here when Spruce Falls—I understand they were ahead of us and made their presentation. But like all bills—that's the unfortunate part—unless you read the paper, even with reading all the papers, you still don't understand different bills that come in front of the Legislature. This could be another case where I don't think the people in this area—some understand, but I think the vast majority maybe don't really understand what the bill is all about,

and it's the way the system works. It's not because we're different than other areas in this province. It's when a bill is presented, and in the format that it's presented, and depending what the news media does with it, the ordinary guy on the street, including those who are municipal leaders, sometimes don't understand the effect of a bill.

A lot of times, after the bill is passed through and all that, if you become involved, then you really feel you should have been on top of it, but it's too late. That's why there has to be some way—I cannot offer you what way it should be done, but what a bill is all about.

Even members of the Legislature like yourselves, many of the bills, if you're not personally involved, sometimes you don't understand. I know I used to be like that. Unless someone tells you what to say and what to do or you read it and then get it explained, because of the way it is drawn, you may have some difficulties with it.

Mr Brown: Well, you've hit the nail right on the head. One of the things we were hoping was that the manuals and the regulations would've been out on August 1 to presenters. They were not. They were supplied to the opposition parties on August 2, and most presenters, we are told, didn't get them till some time—

Mr Piché: We only got it yesterday; I saw that.

Mr Brown: —through the week, so we haven't had an opportunity, and as you point out, as members of the Legislature, we're generalists. We rely on the folks who are directly involved to give us the information, because although I've gone through these manuals, I don't understand and don't claim to understand them until some people with some expertise come before us and are able to tell us that.

How many people in this community are directly involved? How many employees are there in the various operations of Spruce Falls that—

Mr Piché: Spruce Falls at this time employs approximately 800, and I am not sure how many shareholders. All of us are shareholders—best investment we ever made. Am I safe in saying that it's about 1,000 shareholders? I go back two or three years when we needed to raise \$15 million at that time, \$12 million or \$15 million, and it was raised like that. In fact we went over. We had to give some money back. And that was a real success. I'm hoping someday that maybe myself or others will take the time to write a book about it, because it's that interesting what happened here in Kapuskasing, and what Kapuskasing is all about right now is going way up and starting the economics—it's changed completely. So you're looking at Kapuskasing as a success story and a company that's making money, which means that we're all going to benefit by it. And we're also getting some good dividends.

The Vice-Chair: Mr Hodgson.

Mr Hodgson: How much time do we have?

The Vice-Chair: Five minutes.

Mr Hodgson: I'd like to thank you for your hospitality in hosting us here in your facilities. It's a real pleasure. It's a beautiful old building, so I got a lot of history.

I've only really got two short comments. One is that on page 2 of your report you mentioned the vision. This

vision has been put in as the purpose of this bill and it's being sold around the world as that forest products coming out of Ontario be sustainable from sustainable forests, but they're also talking about sustainable in terms of economic impacts.

For a community like Kapuskasing, you've outlined that presently you're meeting these goals, that your public are enjoying the forests, that you're rehabilitating your rivers and streams. Do you think this legislation's necessary to meet this vision? Your community and your economic plan is based on this vision, and you seem to be striving towards it. Did you need changes in the present legislation to ensure that the long-term viability—

Mr Albani: I think what we need to assure ourselves of is the fact that everyone is following those same guidelines. If we have only one mill, or if we only have it down around Kapuskasing and that is not followed through in other areas, then we talk about what the gentleman said earlier about competitiveness. It certainly has a bearing on competitiveness.

Secondly, we don't have the enjoyment of the residents of Kapuskasing in the use of the forests as what we do in Kapuskasing because we have our own community forest. So basically that's what we mean by that.

Mr Hodgson: Okay. As you realize, we're going to be asked to vote on this, and I look forward to your comments when you've read all the manuals. But we have listened to a presentation this morning from your major employer and the economic lifeblood of this area, and it's had a long history of being one of the first companies to sign on to forest management agreements with the crown. What they presented to us is, if we don't have substantial changes to this bill, we shouldn't vote for it.

What I want to know is, is the status quo better than passing this bill? We're a third-party opposition. If there aren't substantial changes, we've got to make a decision: Do we support the government or do we oppose it? I would like some direction from your council.

Mr Albani: Okay. With respect to the bill you're mentioning now, that's all the material that we had originally when we were preparing our presentation. It's only in the last day or so that we received additional data, which we haven't had time to go through. The manuals were not available to us. You have to read the manuals in conjunction with the act to find out what it all means, and we can't do that, because we didn't have the manuals.

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So to say what we have today with Spruce Falls and this legislation matching up, no, we can't agree that it does. Therefore, we're saying that extra time must be looked at with respect to analysing both the manuals and the act together so that we get the whole picture, not just half.

Mr Hodgson: Yes, everybody's in agreement with the broad strokes; it's in the details that the truth will be found.

Mr Albani: That's right, it's in the broad strokes that all these questions arise. There are several major concerns

that arise from it. It's because of the broadness of it, and we don't have the detailed information that should be forthcoming to us.

Mr Hodgson: That's very unfortunate.

Mr Piché: This question is crucial and we want to get back to the committee and yourself, because it's very important. When we have read all this material, we may come out and suggest that maybe a bill like this is not necessary. If it's working, you don't fix it. I don't know. If we were in the States right now, I'd take the Fifth Amendment for this particular question.

Mr Bisson: René, you've never been known to take the Fifth Amendment. I've never known you to take the Fifth Amendment.

Mr Piché: Yes. I'm glad that you brought it up and that it's in the records. That gives us the opportunity to maybe make further comments on exactly what you said, because you've hit it right on, that there's too many bills that are sometimes being passed, not only by this government but others, that should have never been touched. Do you want me to rattle a few or not?

Mr Ramsay: Only in the last four years.

The Vice-Chair: That will be quite sufficient. Thank you very much, Mayor Piché, Councillor Nadon and Mr Albani, for your presentation. Certainly it's much appreciated. See what the wisdom of the committee will be when we get to clause-by-clause. Thank you again.

Mr Piché: Mr Chairman, we will get back to Franco. Incidentally, I used to work with Franco in the early 1980s and he was doing a fine job then.

The Vice-Chair: Were you his teacher?

Mr Piché: Yes, I think I was. I'm sure that he's still doing a good job. Franco, that's maybe an opportunity to ask for the necessary raise.

The Vice-Chair: Perhaps what he'll get out of it is another visit to Kapuskasing.

Interjection: I'm sure that's recorded on Hansard.

HEARST LUMBERMEN'S ASSOCIATION

The Vice-Chair: The next presenter is the Hearst Lumbermen's Association, represented by Mr Claude La Flamme. I understand you're not Mr La Flamme. If you'd like to give your name, please. Aussi, il y a la traduction simultanée. Alors, si vous voulez vous exprimer en français, les dispositions sont ici. You have 30 minutes. If you'd leave some time for questions and answers, it would be appreciated. Your name is Jules Fournier?

Mr Jules Fournier: Thank you, Mr Chair, members of the committee. As you clearly stated, I'm not Claude La Flamme; I'm Jules Fournier. I'm the general manager of a lumber company in Hearst, namely, Lecours Lumber. I'm here in replacement of Mr Donald Bisson. He is the president of the Hearst Lumbermen's Association. Mr Bisson, unfortunately, could not make it.

Also, I will apologize for not having copies to circulate. There's reason for that. What happened is that my secretary's father-in-law passed away yesterday. There's just no way I was going to risk, you know, that I type this myself and pass this on to you.

Nevertheless, the Hearst Lumbermen's Association

represents two sawmills and one plywood plant and one particle melamine plant. This is owned by Lévesque Plywood. We are the prime industry in the town of Hearst and the surrounding communities.

This presentation will focus on some of the elements. Why I'm saying "some of the elements" is that we're all members of the Ontario Lumber Manufacturers' Association, the OLMA. They will be making a presentation to this committee. By just taking some of the elements over here today, we're not saying that the bill is A-OK as is, but like I say, OLMA will be presenting some of our points also at the end of the month or a later date.

The points which I will be discussing today are as follows. We'll be talking about the industrial forest land base. We're saying that the revised act must define Ontario's industrial forest land base if it is to reach the goal of sustainable forests, sustainable forest industry, sustainable communities and sustainable jobs. The withdrawal of productive forest area by means outside of the planning process, in an add-up way and without compensation undermines the sector. A definition of the forest base would give certainty and confidence to stakeholders to carry out their activities.

Furthermore, should there be an EA bump-up, we are saying that the act should stipulate that all activity should be stopped until the issue has been resolved, and also the act should have a user-pay concept. If an interest group pressures the minister for a land withdrawal, then they should pay similar to what the industry would have paid, plus a spinoff of all the revenue that the province would lose on account of jobs. You know, if people work, they're paying taxes.

The province of Ontario, we're saying, should not be deprived of revenue on account of special interest groups. More, if an alteration of the industrial forest land base occurs, then compensation should be automatic for those affected. I would have to say, Mr Chair and members of the committee, that the land base is very important. When we're talking about withdrawal, the possibility of land withdrawal due to pressure from special interest groups, we have the financial institutions that are seeing this and seeing the possibility, and they're saying, "How can we protect our investment?" We're scaring them away.

They're just going to walk away from our industry, and not only this. If you do have some potential investors willing to come into your community and invest, they're simply not going to do it if this possibility is there, is very real and exists.

The second point that we want to bring up is the best end-use policy. We're saying that this policy should be in the act and should prevail. The use of sawmill chips as pulp furnish should be fully utilized before roundwood is used. This would ensure that our limited and perishable forest resources be used in their full and effective way. It would also ensure that the sawmill industry maintain a current level of jobs in the community which it supports. I believe that this was a recommendation in the FIAG report.

The third point is the stumpage. The residual value tax should not be introduced as it will negatively impact the forest industry's ability to reinvest in business and to

create jobs. By wanting to share in profit and not in losses, the government will scare away investments and will force companies to decrease costs in order to stay profitable. Industry will be forced to find technologically superior methods of production which will result in a reduction of jobs. This means less revenue for the province and an increase in social program costs.

If the government comes in and puts in this tax at a certain level, it's going to drain our cash. That's what's going to happen. In order for us to stay competitive, we'll have to find ways to reduce jobs, in order to decrease our costs. Our competitive position will be reduced as the increased costs will be passed on to consumers, therefore making Ontario lumber less attractive at home and abroad.

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Our forest industry does not need another tax. As you all know, our markets are cyclical. There are ups and downs. The residual value component will be a drain on capital needed when the markets are down.

There's one thing that the bill also should address. Bill 171 should address, and support, some zone-based stumpage that recognizes distance from the market. This would make distance producers such as Hearst more equitable with competitors located in Nairn Centre or New Liskeard.

Also, we could get into the quality of the forests. Some forests are easier to access than the forests that we have in Hearst. But I will let the OLMA deal with this one.

Silviculture: The Hearst Lumbermen's Association supports the funding mechanism for the forest renewal. We believe that this is an excellent way to ensure our wood supply and long-term survival. We do have some concerns with some guidelines and regulations, but this will be addressed by the manager of Hearst Forest Management Inc, Mr Denis Cheff.

This concludes my presentation. Are there any questions? Don't make them too hard.

The Vice-Chair: Thank you very much. You don't need to worry, Mr Fournier.

Mr Ramsay: Mr Fournier, thank you very much for your presentation. I found it very informative and right to the point. I must say, I agree with all your ideas you have here about improving the sustainability of the forestry industry in northern Ontario. I'm very pleased that you've brought up some of these points. I'd like to reiterate one.

I think one of the main lines of this act should be, "Thou shalt not harvest fibre if fibre exists somewhere else." You talked about it with the chips. In some mills we've got mountains of excess, surplus chips sitting there. Yet another company down the road, within very manageable transportation distance, is busily out there in the forest cutting down very big trees to put through chipping operations. There's got to be a rational system if we want sustainability. That's how we can sustain our forests, is just make sure we use the wood as we come upon it and strike a balance within the different industries so that if the sawlog industry is doing well and is allowed to extend its cut and there's a surplus of chips, then those chips should be absorbed by the other companies that

could use that product for their processes. That would add a lot.

I don't know if you want to comment any more about how strongly we should have that in the legislation.

Mr Fournier: What I have to tell you on that is that we've lived back in 1990 where 7,000 metric tonnes shut us down for eight weeks. This was absolutely ridiculous. We didn't need that. When you start looking, that 7,000 tonnes of chips—and maybe Mr Len Wood, being that he worked in pulp and paper in Spruce Falls, in Kapuskasing here, could expand more on 7,000 tonnes of chips, how long that's going to last. That's seven days' work for a mill in Kapuskasing. In order to produce 7,000 tonnes of byproduct, which is chips, you need 14,000 cords of wood, because 50% goes into wood and 50% goes into chips. In order to cut 14,000 cords for a pulp and paper company, you could be looking at 21 days' work, but for us, for 14,000, you could be looking at a month.

With all of this, I'm saying that we don't want to shut down the pulp and paper companies. We need these people, but we'd like to be recognized also as being needed. We're saying that we could have a happy median over here, that if we are to produce chips, they use chips and we use the sawlogs.

Mr Ramsay: Mr Fournier, explain to the committee why the 7,000 tonnes of chips shut you down.

Mr Fournier: Because we had no markets, because the pulp and paper companies would not take them, because we understand that they had problems, in a sense, with market and they were still cutting in the bush.

Mr Ramsay: The point being, you were not allowed to stockpile more or you just couldn't afford to go on without the cash flow coming in from the sale of chips?

Mr Fournier: I guess it's a combination of both. There's limited space for 7,000 tonnes. We're not equipped to carry inventories of 30,000 tonnes, like the pulp and paper companies. Also, cash. The other thing is the quality of the chips. If you stockpile chips for too long, they deteriorate and they're no longer useful for pulp and paper companies.

Mr Ramsay: So not only does it stop your production, but the potential is there that we may lose the fibre from the forest that's been harvested because of the deterioration of the chips in the stockpile if they're not used up in a timely manner.

Mr Fournier: True. Yes, you would lose part of that for sure.

Mr Hodgson: How much time to do I have, Mr Chair?

The Vice-Chair: Five minutes.

Mr Hodgson: Thank you very much for your presentation. I enjoyed that. I'd like to follow up on this best end use and then ask another question on your idea for this compensation for the alteration of the landscape.

First, I'm uncertain on how you would implement a best end-use policy. Does it have anything to do with the tenure or the licensing of the FMAs? If somebody has a licence on it, how do they ascertain where the lumber goes? Do they not use the best end-use policy?

Mr Fournier: I'm not sure I'm getting your question quite right.

Mr Hodgson: How would we change this act to implement the best end-use policy?

Mr Fournier: The best end-use policy is that we should be looking at sawing material size. Define the sawing material size. In all FMAs—for instance, we're in Hearst and we have the Kimberly-Clark forest, which is west of us, and then we have the Gordon Cosens Kapuskasing forest, which is east of us. What we should be looking at is having sawlogs going to sawmills and pulpwood, a certain size, going to pulp and paper companies. That should be a best end-use policy, and the chips derived from these sawlogs should be directed to pulp and paper companies.

Mr Hodgson: Just put that in the regulations? Is that what you're suggesting?

Mr Fournier: Yes, that's what we're suggesting.

Mr Hodgson: Second, can you just explain to me in a bit more detail—we've heard a lot about compensation. I don't know if you've been following this committee, but there was one suggestion that tourist operators and that should pay for area charges. Then there was another suggestion from tourism operators that maybe they should be compensated for a change in their landscape, that it affects their business plans. Now you're suggesting that compensation be given if—what's your idea of compensation again?

Mr Fournier: The idea of compensation, for instance, is that—and we've lived through this with some of the outfitters that exist. They say, "We have a lake here and we're requesting that we get five miles around that lake that's being protected." That's within our forest. That's within our FMA. We're saying that we're losing part of this forest.

Where are we going to get that? We need that timber. Where are we going to get it? Nowhere. If there's nowhere, in that case—we have capitalized, we have invested into our industry, our sawmill—we find out that we have to shut down a shift or we have to shut down the mill for a month or two months. This is lost revenue for us.

1050

If the minister, for instance, says, "This lake over here should be taken off," in that case they should be compensated because they've lost, the outfitter has lost. A good example of this is that being a good member of the Ontario Lumber Manufacturers' Association, we're looking at the Field sawmill. We all know what happened there. This mill is no longer there. I'm not going to get into great detail of this, but all that I know right now is that there was discussion and a fight over the forest. Unfortunately, there is no more wood for that mill to operate.

Mr Bisson: Thank you very much, Mr Fournier, for your presentation. You talked about investment and about how your fears were that this legislation, or any change, I guess—correct me if I'm wrong—to the status quo would threaten the future investment. I wonder on that statement because this policy has been discussed for a

while. We've been sitting down with industry for at least six to eight months. In that time we've seen hundreds of millions of dollars of investment to northern Ontario when it comes to new mill expansion or new mill construction or upgrading of technology and knowing exactly where we're going with the policy.

I just wonder when that kind of statement is made. I can understand industry saying: "Listen, we have a problem with the change. We think there need to be amendments. We don't like the way certain legislation is going." But I think to make statements like that is a little bit stretching the imagination. I don't want to badger it, but I just had to make that point.

I want to come to the point of residual value, because that's really the crux of this, that your association is opposed to any kind of a residual value arrangement with the government. What we're trying to do, as you're well aware, is that we're in the process of negotiating with your industry what a fair value is, because we recognize that you have to make sure that you have a return on your investment to pay your bills, you have to make a profit, you have to pay your shareholders, and all of that comes into play. I can only tell you that we're interested in making sure that's done in as fair a way as possible, recognizing the needs of your industry.

I certainly don't see at the end of this whole process the industry being affected to the degree that you talk about. I would hope at the end of this the \$6 for the stumpage on conifer that would go to the trust fund and the dollar on the base and the residual value on top of that would not be exorbitant or out of line to what you're paying already. So if that reassures you, you know, that's certainly where we're going.

The best end use: I want to follow up on what Mr Hodgson had raised. You made that sound very simple, but it ain't as simple as you made it out to be, because you well know there are a lot of people like you competing for that same roundwood.

There's not only you but there are all kinds of other mills and operators along the highway, Highway 11, who want access to that wood. If we develop the best end-use policy in the legislation that says what you said to Mr Hodgson, how would you then determine to what mill it goes? Should it be on a competitive bid system or should it be based on the needs of the economics of the area? How would you see that working? Because that's the part that I think is unclear.

Mr Fournier: Well, especially, let's take this area over here where we always said that we were treating from Pagwa, which is west of Hearst, right down to Fauquier as one community region. That's an economic region. We're saying that part of the KC forest should address the requirements for the sawmills in Hearst and part of their pulp and paper mill. Also, from Fauquier the Gordon Cosens forest should address all of the mills in Hearst, including their own.

Mr Bisson: We all agree on that point and we're trying to address that to a certain extent in the legislation, but the question I have for you is, if it's deemed that there is the sustainability in that forest to be able to do what you want to do, how do you decide what mill it

goes to? Because there's not only you competing for that roundwood. There are other mills and other producers around Highway 11 and other areas that want it. Should it be up on a competitive bid system or should we be saying, "These people have 300 jobs, they have a whole community"—how do you decide who gets the wood?

Mr Fournier: The thing is that it still comes back to what you're licensed for. If you're licensed for 458 cubic metres, in that case this is what you need, this is what you get and the forest could sustain that.

Mr Bisson: What you're saying then is that if there's excess wood, then what we should try to do is try to give it to those mills that already have licences that say you're going to get an x amount of wood and you have such production capacity, and you go from the one that needs it the most to the one that needs it the least? Is that what you're—

Mr Fournier: Basically, what we're saying is that we're trying to run to capacity, two full shifts. The one that has the wood will run two full shifts. This is the way it is right now. But the one that hasn't got the wood will run one shift, but his investment is as great as the next one.

Mr Bisson: We understand that.

Mr Fournier: This is what I'm saying: Yes, you could come down and look at the requirements of each individual mill.

Mr Bisson: That obviously would have to be done with industry. You wouldn't advocate just the ministry making that decision.

Mr Fournier: The ministry could support or could implement this best end-use policy, and within the industry, sure, it could be done.

Mr Wood: Welcome to the committee. I just want to go back into your mind and back a number of years, at least the last four years and maybe before that, as to the all of the different policies and consultations, including the environmental assessment. Your mill and the Ontario Lumber Manufacturers' Association, including the pulp and paper industry, have been involved in the consultations, the processes that have taken place leading up to Bill 171, involved in assisting to write the manuals, the draft of the manuals. I just want to know how much involvement you've had in northeastern Ontario around those.

Mr Fournier: To answer your question, I myself personally did not have very much involvement in this, although we do have a committee with the Ontario Lumber Manufacturers' Association that did help write manuals. But for myself personally, I didn't.

Mr Wood: But the committee was involved in the manuals, the draft regulations and aware of the legislation, including the Carman exercise?

Mr Fournier: Yes, and I understand that even more so at a later date the OLMA offered to help to write the new manual.

Mr Wood: You're aware that the manuals were coming out some time after August 1, prior to—

Mr Fournier: To be quite honest with you, I have not

received a copy of that as of yet. I know that a lot of people did get a copy.

Mr Wood: So we've got to go after the Liberal government and Canada Post in Ottawa. Okay, thank you.

The Vice-Chair: I don't think we're going to enter federal matters here.

Thank you very much for your presentation. It's certainly very much appreciated that you came here. The committee will take your concerns into serious consideration. Thank you very much.

TOWN OF HEARST

The Vice-Chair: The next presenter is the town of Hearst. I understand that Mr Louis Corbeil is here to speak on behalf of the town. Comme vous avez pu constater, nous avons la traduction simultanée. Si vous voulez utiliser le français, vous êtes le bienvenu. You have half an hour—no, I'm sorry; you have only 15 minutes, because we have a plane to catch later on in the afternoon. You will have 15 minutes, which is of course not very long. If you can leave a little bit of time for questions and answers, it would be appreciated.

Mr Louis Corbeil: I believe everybody has a copy of my presentation. I'll go through the presentation.

The letter from the Honourable Howard Hampton dated April 11 which announced the new legislation was presented at town council. Further to that letter, council adopted a resolution, of which you have a copy on the last page of the document. It expresses council's support for certain aspects of the legislation and also some concerns. I will go back on each one of those points that you see in the resolution and I'd like to make a few comments.

The first one is that the council supports the principle of a grantee for forest renewal. This is something we believe should have been done a long time ago. We believe that the Hearst forest in fact is a victim of some questionable forestry practices and of lack of regeneration efforts in the earlier years—the 1930s, the 1940s. In those years many of the logs were shipped directly to southern Ontario or the United States without any processing occurring in our region. We know by studies that the Hearst forest generates only 52% of our local mills' requirements.

Also, according to a study by the Ministry of Natural Resources, which was updated in the last TMP plan, the Hearst forest will have a severe shortage of mature trees suitable for sawlogs in about 30 years. This shortage will last for about 40 years before natural regeneration and more recent regeneration efforts bear fruit.

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We believe that one of the shortfalls of the proposed new legislation is that it does not address this middle-term problem for areas such as Hearst, which will be facing serious wood shortage.

The legislation should do more to promote the best end use of fibres. That means to us, ensure that whenever possible large trees are used for lumber production, and chips and smaller trees are used for pulp and paper.

Furthermore, council believes that the proposed

residual value charges will in fact be an incentive, or could be an incentive, for the paper mill industry to chip their own sawlogs on which they will not be required to pay said charges, instead of purchasing the excess chips from sawmills. This aspect of the proposed residual value is clearly against the principle of the best end use of fibres and therefore, to us, this aspect is not acceptable.

Council also supports more local decision-making. Again, the municipality agrees with this principle. This of course means more responsibility locally. The municipality supports the principle that the forest industry be responsible for regeneration of the forest and that they carry a good part of the financial burden that this entails.

However, we do recognize certain concerns expressed by the local forest industry. First of all, tenure: We recognize that the industry is required to contribute to reforestation, but there is no ensuing tenure or guarantee, which amounts to, for them, a considerable investment. Furthermore, other stakeholders in the forest, such as tourist outfitters, anglers and hunters etc, use the resource and in some instance intervene in the forest management process and may even restrict logging operations in large areas, but do not bear any of the responsibility or cost for the management of the forest.

Another concern: the state of the forest. As I mentioned before, the industry must now compose with errors of the past. Also, we believe that in some areas fertility of the soil, type of terrain and other adverse conditions result in harvests that are less per acre in some areas than others. These factors maybe should be taken into account when determining how stumpage fees are set.

Finally, the regional forest: We believe that in order to ensure sufficient middle- and long-term supply of sawlogs for our local mills in the Hearst area, management of the forest must be looked at on a greater scale than just the FMA boundaries.

This concern for adequate supply, and therefore the survival of local sawmills, is of paramount importance to the municipality, since the local sawmills are the basis of our local economy and the *raison d'être* of our community. We believe it must also be a concern of the province, since it's the province that invests and continues to invest so much in the excellent municipal and school and hospital infrastructures that we have right now, so I believe this has to be taken into account. I don't think we can afford, as was mentioned, to base it strictly on competition. There are, especially for best end use, factors that must be taken into account to permit the communities to survive.

Another concern of council is the residual value charges that are proposed. This new imposition, we believe, will deprive local mills of capital dollars, since it is tied in to profit margins, and I guess it's with profits that companies get their capital dollars. We believe this could seriously cripple the capability of the industry to remain competitive, by investing in modernization.

Furthermore, this drain of capital will weaken its capacity to weather the storm during lean years and they have been pretty frequent, let's say in the past decades.

Of course, we fully support, like I mentioned before,

the concern for best end use. We agree that to us also it's a concern. I think it should be that, whenever possible, large trees must be used for lumber and smaller trees and chip for pulp and paper. It's a question of logic. We believe the best end use of fibre principle dictates that, in our region, the management of the forest must be looked at on a wider territory in order to ensure that the supply of large trees is available to our local mills. Of course, it must also be noted that the best end use of fibre is environmentally sound.

The last point, efficient and timely community involvement: The municipality supports this concept of what in the legislation is called, I believe, "local citizens' committees" as proposed.

In fact, we already have a stakeholder committee in Hearst which was established in April 1992. The mandate of the committee is to ensure input from all Hearst forest stakeholders and to assist the Ministry of Natural Resources in the development of policies, guidelines and projects that affect the Hearst forests. That's their formal mandate.

In our experience—right now we have 30 members in the stakeholder group and they represent the forest industry, the FMA, anglers and hunters, natives, tree growers, cottage owners, union, outfitters, trappers, snowmobile clubs and many others. The Ministry of Natural Resources, who spearheaded the formation of the committee, also gives us administrative support. I believe it's worked well. In fact, I'm president of the stakeholder committee so that's why I'm elaborating a bit on it here.

I believe it's worked well in the past two years, especially in conflict resolution, namely between outfitters and local anglers and hunters. These resolutions have avoided several bump ups which would have entailed environmental assessment and caused costly delays in road construction projects.

It's interesting here at this point that the conflict really was between the outfitter and the local angler, and the company was caught in between because they're the ones who needed the road. I think this is something that, when you develop how these committees will work, should be looked at.

Even though I think we had some successes, it has become apparent that stakeholders who share in the decision-making through the committee should also share in the responsibility. We must find a way to responsibly advise them.

Presently, the threat of bump up affects mostly the forest industry. Other stakeholders do not have as much, if anything, to lose. This does not foster responsible decision-making.

Finally, I'd just like to note that the stakeholder committee has proven to be a very effective community educational tool. It generates a lot of interest just by the 30 members who report to their group and the media is involved. I think it's a good endeavour. Thank you very much.

The Vice-Chair: Thank you for your presentation.

M. Corbeil : Si vous avez des questions en français aussi, ça va me faire plaisir de répondre en français.

Le Vice-Président : Alors, il y a deux minutes par caucus pour des questions et des réponses.

Two minutes per caucus, seeing there's only 15 minutes allocated.

Mr Hodgson: Thank you very much for coming in. In general, I enjoyed your presentation. I just have a couple of small questions I'd like clarified. They might be obvious—very simple.

When you talk about the residual value charge—as you know, as a party we're opposed to any further tax increases on individuals or companies. We feel we're losing our competitive advantage to create jobs in the long term and the short term in this province. When you tied this in to the best end use, and you used an example that the paper mill industry will chip their own sawlogs and won't buy the chips—

Mr Corbeil: The way I understand it is the paper industry would be—the tax on the paper industry, the residual value—it's not a tax, it's a charge; okay?

Mr Bisson: It's not a tax.

Mr Corbeil: It's not a charge?

Mr Bisson: It's not a tax.

Mr Corbeil: It's not a tax; okay. The residual value charge for the paper industry would be based on the price of the tonne of paper.

Interjection.

Mr Hodgson: Mr Chair, I can't follow this.

The Vice-Chair: Yes. I'm sorry, Mr Bisson. Have you finished your response?

Mr Hodgson: No, I didn't catch his response at all.

The Vice-Chair: Could you please, without interruption by Mr Bisson, repeat your response for the benefit of Mr Hodgson?

Mr Bisson: I'm only clarifying.

The Vice-Chair: I think we'll let Mr Corbeil clarify his own remarks.

Mr Corbeil: The way I understand it is that the paper mill industry is—the residual charge will be based on the price of a tonne of paper to determine where the threshold is, where the—

Interjection.

Mr Hodgson: Don't worry about him. I'm the one who wants to know the answer.

The Vice-Chair: He will have his chance afterwards.

Mr Hodgson: He follows after.

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Mr Corbeil: Of course, when the charge kicks in for the lumber industry, it's going to cost more for them to do the chips because you have to—so if it's going to produce more, the cost of the chips coming from the lumber mill is going to be higher, which can have a negative effect on their capability of selling the chips to the paper mills which of course also cut logs themselves and could decide to chip it in the forest or—I'm not saying it's happening right now. I don't have enough knowledge of the industry for that, but I'm making that point.

The Vice-Chair: Thank you.

Mr Corbeil: I'd welcome Mr Bisson's comments if he's—

The Vice-Chair: Now it's his time for—

Mr Bisson: I will gladly comment—

The Vice-Chair: Two minutes only, Mr Bisson.

Mr Bisson: I want to make sure everybody understands this. First of all, the current system as it stands now for conifer, you pay a stumpage to the crown, and that's \$11.37 based on current price right now. Under what's being proposed in Bill 171, it doesn't really change the amount of money we pay. It ensures that the money that's paid goes into the trust fund so that we can ensure in the end that there's money to do reforestation, not only for people on FMAs, but people on crown units as well which would affect you.

There's \$1 that's in the base, there's \$6 that goes into the trust fund itself, and the part that's under negotiation now is the residual value that you talk about. It will be based on two things. It will be based mainly on the profitability of your sector. If your sector does not make money, you will not pay residuals, but you will not pay residual value. If it makes money, then that's what we're negotiating. There'll be a threshold at which point that starts you will pay.

It is expected at this point, and I would imagine that's the position of your association in negotiations, you would try to negotiate so that you start—at this point if we make the transfer, that you're somewhere in the same ballpark of what the actual stumpage is now so that you don't end up paying more. We're not interested in making it unprofitable, we want to make sure that there's money there for the future to be able to do the replanting and reforestation. That's basically what the plan is and we can talk about that a little bit later.

Je suis curieux, avec — est-ce qu'on a le temps ?

Le Vice-Président : Pas beaucoup.

M. Bisson : Une question de Comité de citoyens. J'ai entendu bien des affaires dans mon coin, à Timmins, concernant votre comité. Est-ce que vous recommanderez que le comité soit formé, basé sur votre expérience que vous avez à Hearst et partout dans la province, tel que proposé dans le projet de loi 171 ?

M. Corbeil : Oui, je crois aux avantages d'avoir un comité local qui regroupe tous les intervenants de la forêt et qui donne une possibilité de résoudre des problèmes parfois avant qu'il n'y ait un «bump-up» ou qu'on se ramasse en cour etc. Je pense que c'est le principe de base qui justifie les comités.

Il reste que ce sont des comités qui marchent par consensus présentement parce qu'on n'a pas de cadre légal, et je présume que ça va peut-être venir avec ça et je pense que ça devrait se développer. Mais j'aimerais surtout faire le point, par exemple, qu'il va falloir trouver une façon à la fois de ne pas restreindre la participation de tous les groupes, parce que chacun a le droit de participer et chacun a son point de vue et son point à amener, mais par contre, il faut éviter le piège où tu as des groupes où il y a peu de conséquences financières ou autres ou qui peuvent débalancer un peu le débat ou

rendre les discussions moins responsables face à ça. C'est surtout ça.

Par contre, la réponse que tu m'as donné au sujet du «residual», je trouve que tu n'as pas touché l'aspect de —

M. Bisson : Je peux le faire.

M. Corbeil : Parce que nous autres on est entièrement d'accord avec toi, comme je l'ai dit dans le premier point, avec le «guaranteed forest renewal». Le fonds, on appuie ça à 100 %, et moi, je représente une municipalité, une communauté.

Le Vice-Président : Peut-être que vous pourriez continuer ça après et peut-être aussi avec le Ministère.

M. Corbeil : Okay.

The Vice-Chair: Mr Miclash for the Liberal party.

Mr Miclash: Thank you very much for your presentation. I'm interested in your stakeholder committee. You've given a fairly good explanation of who it belongs to and the use of the Minister of Natural Resources, I'm more interested in how your agenda—like who brings the items to the agenda, how often does the committee meet and who decides on the actual agenda of those meetings.

Mr Corbeil: I guess what spearheaded the creation of the committee was mostly the conflicts between different users which were affecting the wood industry because, as I said, they were getting threatened by bump ups, and sometimes negotiations were hard. Also there were times when they weren't really directly involved in the problems. There were conflicts between the outfitter and the local anglers and hunters. The local manager thought this committee, which brings everybody to a table, could foster better understanding. I'm sorry; I forgot the first part of your question.

Mr Miclash: So, in essence, your recommendations are made to the minister.

Mr Corbeil: Any member of the committee can bring something to the agenda. It's studied by an executive. We meet once a month during the winter; maybe five or six times a year.

The Vice-Chair: Thank you very much. We certainly appreciate your presentation, both the written text that you left with us and your answers to some of the questions. So thank you again.

M. Corbeil : Merci beaucoup.

NORD-ASKI FRONTIER DEVELOPMENT INC

The Vice-Chair: The next presenter is Nord-Aski Frontier Development, Sylvie Fontaine. On m'a informé que vous êtes bien la fille de M. René Fontaine, qui bien sûr est bien connu par quelques-uns de nos députés.

M^{me} Sylvie Fontaine : Oui.

Interjection: His granddaughter.

Ms Fontaine: No, no. He's not that old.

The Vice-Chair: We'll strike that from the record. You're here to speak to us on behalf of Nord-Aski. I think you are familiar—you have 15 minutes, if you'd like to leave some time for questions and answers, et aussi, vous pouvez bien sûr faire la présentation en français. Please go right ahead.

M^{me} Fontaine : Bonjour. Merci de m'accueillir ici

aujourd'hui. Je ne savais pas qu'il y aurait de la traduction, ce qui fait que mon mémoire est en anglais, mais je vais parler en français.

Nord-Aski Frontier Development Inc est un organisme régional de développement économique communautaire qui rejoint les communautés de Hearst, Hornepayne, Mattice-Val Côté et Constance Lake First Nation.

Étant impliqués dans le développement économique communautaire, nous sommes tout le temps concernés sur la durabilité de nos industries locales, que ce soit la forêt, le transport ou le tourisme. Comme vous le savez probablement, l'industrie forestière est l'épine dorsale de notre économie dans la région Nord-Aski. En juin 1993, nous avons fait une analyse économique. Cette analyse indiquait que l'industrie forestière représentait 990 emplois directs, l'équivalent des emplois à temps plein.

En utilisant le multiplicateur conservateur de 1,584, parce que certaines communautés vont utiliser 2 ou 4, ceci représente un total de 1 568,5 emplois. Pour ce qui est des revenus générés par ce secteur, ça représente 32 967 000 \$ de revenus directs, et en utilisant toujours un multiplicateur un petit peu plus conservateur que l'autre, ceci totalise 48 millions, près de 50 millions de dollars.

Dans l'économie totale de la région Nord-Aski, le secteur forestier génère, côté emplois, 43 % de nos emplois et 42 % pour les revenus. Le deuxième secteur, c'est le transport, qui génère 26,3 %, côté emplois, et 34,5 % côté revenus. Mais je dois souligner que dans ça, on a aussi le CN qui, sur ce pourcentage-là, est à peu près à 23 %. Il y a 400 emplois directs à Hornepayne.

Nord-Aski Frontier Development appuie en principe le projet de loi 171. Étant donné qu'on est un organisme de développement économique communautaire, on n'est pas seulement concernés de la durabilité de nos forêts, mais aussi sur la durabilité de notre industrie et des emplois.

Il y a certaines provisions dans le projet de loi 171 pour établir une forêt à long terme avec les deux fonds, soit le fonds de reboisement et le fonds de réserve forestier.

Par contre, le projet de loi doit s'assurer la viabilité financière de nos industries locales. Ceci, en retour, assure l'existence de nos communautés. Sans l'industrie forestière — vous n'êtes pas sans savoir qu'on a perdu une industrie en 1992 qui a été la perte de 400 emplois. Si on n'a pas une durabilité de ce qui existe actuellement, on ne pourra pas survivre.

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En fait de viabilité financière, je fais référence à l'introduction de la taxe de valeur résiduelle pour déterminer les frais de coupe. Nos industries locales, comme vous le savez, viennent de traverser l'une de leurs pires périodes économiques et elles commencent seulement à démontrer un certain profit.

S'il faut commencer à taxer le profit de nos industries locales, nous croyons que ça va les décourager à créer de nouveaux emplois, à investir dans la modernisation et à être plus compétitives sur le marché global. Donc, nous suggérons fortement au gouvernement de réviser cette taxe proposée, et M. Bisson a quand même réitéré tout à

l'heure que ce n'était pas final, que les pourparlers étaient en cours pour qu'elle soit plus équitable et qu'elle assure la durabilité de notre industrie locale et de nos emplois.

L'introduction du Comité de citoyens pour aviser le ministre sur différentes questions est en ligne avec les principes de développement économique communautaire. Nous, on est une agence de développement économique communautaire et on a consulté la population quand on a fait notre plan stratégique économique, et ça va vraiment de pair avec ce principe-là et on est entièrement en accord.

Par contre, il faut s'assurer que ces comités-là ont des procédures, des politiques qui les rendront plus efficaces pour prendre des décisions. Ces comités doivent avoir les outils nécessaires pour conseiller, du mieux qu'ils le peuvent, le ministre et doivent avoir une représentation équitable des dépositaires d'enjeux de la forêt et de la communauté.

Tous les efforts devront être faits pour qu'il y ait une transition la moins chambardante possible, si on peut dire, quand ce projet de loi va être en cours, et les recommandations du rapport Carman, étant donné que ça va changer beaucoup la manière dont l'industrie va agir avec le gouvernement.

Finalement, on aimerait réitérer le fait que le projet de loi 171, avec toutes ses politiques et procédures, même s'il assure une durabilité de la forêt pour notre industrie locale, doit aussi encourager nos industries locales à être financièrement viables et à être plus compétitives. Merci.

Le Vice-Président : Merci pour votre présentation.

Mr Wood: Thank you very much, Sylvie, for your presentation. I'm looking forward to some meetings in Hearst tomorrow morning.

I just want to comment on page 4 of your recommendations, where you're saying that you're looking for "a smooth transition of the Crown Forest Sustainability Act" from the present Timber Act. This is the intention of the government, to have a transition over a two-year period and up to five years for some portions of it.

Moreover, Bill 171 is intended to sustain the communities, the jobs that are there, create new jobs, as we've announced three new mill operations in the last number of months, and we're expecting more announcements in the very near future involving poplar and birch. Bill 171 is intended to sustain the communities, sustain the jobs, create new jobs and sustain the forest on ecosystems.

We're looking for ideas and suggestions from the various groups that have been involved over the last four years in helping to develop the manuals, the policy and the legislation that we're talking about today. Those are the comments I wanted to make. Thank you for coming forward, Sylvie.

M^{me} Fontaine : Si on regarde le projet de loi 171, oui, il assure la durabilité de nos forêts. Moi, ce qui m'inquiète, c'est cette fameuse taxe-là qui, semble-t-il, va s'introduire, tout dépendant si elle va être équitable. C'est ça, je pense, qui va aller contre la durabilité de notre industrie et de nos emplois.

Le Vice-Président : Une brève question, Monsieur Bisson.

M. Bisson : Je fais attention de ne pas répéter ce qui a déjà été dit. La vision du gouvernement, c'est d'être sûr que la viabilité des compagnies ce n'est pas seulement face à la forêt elle-même mais aussi sur le point économique. Les négociations qu'on est en train de faire sur ce qu'on appelle le Carman exercise, ce sont des négociations qui vraiment touchent à ce dont tu parles quand ça en vient à la valeur résiduelle, et on veut faire sûr qu'à la fin de la journée, les compagnies sont viables. Alors, vous avez notre parole sur ça.

Je fais rien que demander si j'ai la chance de poser une petite, petite question sur le Comité de citoyens. On essaie toujours. On est tous d'accord ; on pense tous que c'est une bonne idée. Oui, il va avoir une bonne représentation de tout, mais à ton idée, qui doit être responsable pour faire sûr que tous les stakeholders sont représentés ? Comment te dépannerais-tu ?

M^{me} Fontaine : Bonne question. Nord-Aski, on siège sur le comité dépositaire d'enjeu de la forêt de Hearst. Je pense qu'il y a un appel qui a été fait à la population par le ministère des Richesses naturelles à savoir qui devrait venir s'asseoir autour de la table. Donc, je ne sais pas vraiment quel mécanisme. Soit c'est fait par le Ministère ou le ministre lui-même, un peu comme les genres de commissions ou de comités de ministère. Mais il faut s'assurer quand même que ce soit équitable, que ce ne soit pas juste un côté versus quasiment personne de l'autre côté.

M. Bisson : Okay.

Mr Brown: Good morning. You bring up the residual value tax. We have some concerns and I think you and the previous presenter both brought a new complexion to the debate, and that is how it affects wood movement through the province.

As it was pointed out, chips may be not very viable from a lumber operation if we're talking about very high residual value taxes in that sector because of strong lumber prices, not because of strong chip prices.

Ms Fontaine: No.

Mr Brown: Over the years, a continuing problem for the province of Ontario and the industry in general is how those chips move in the most effective way between the mills. I know in my area anyway, and I suspect here, at times in the lumber industry the real product is the chips, not the lumber, if prices are very low.

Ms Fontaine: Yes.

Mr Brown: So I appreciate that and any thoughts you might have to expand on that.

Ms Fontaine: I'm not an expert on the chip movement. I have no comments, really. I don't want to—

The Vice-Chair: Any other questions there?

Mr Brown: No, I think that's the primary one because—

Ms Fontaine: My main concern is that if they're going to tax, charge, whatever—or if they don't want to call it a tax or a charge—

Mr Brown: You pay money.

Ms Fontaine: Yes. It's still money out of your profits. The government knows it's a boom-and-bust

industry and when it's a bust, they need the money to keep continuing operating. So if they're going to—

Mr Brown: One of the things that surprised us about the residual value tax is that it doesn't come back to the forest industry at all.

Ms Fontaine: No. That's also a main concern.

Mr Carr: Thank you very much for your presentation. Recognizing there are some concerns—I don't know if you were here when Spruce Falls Inc presented, but basically, they outlined some of their concerns and they said that if the bill doesn't change, they requested members to vote against it. Recognizing that you'd like to see some changes and depending on what happens, there may be some amendments come forth from the government—but if the bill remains the same and you were recommending to myself how I should vote on the reading on this, would you recommend that I vote in favour of the bill or oppose the bill?

Ms Fontaine: The bill itself is not where my beefs are, it's in the regulations. I received the draft form this week and there are about 1,000 pages, so I haven't really read them. But the charge I'm talking about, the residual value, is in these regulations, it's not in the bill.

1130

Mr Carr: I know the concern, in a lot of bills, is whether they should put it in the regulation or in the bill. It's harder to change when it's in the bill. Recognizing that this government probably won't be around nine months from now, after the next election, we don't have an option of voting on the regulations, we have to vote on the bill as is.

Knowing that and knowing that they're in the regulations and the broad regulations are very powerful, how would you recommend we vote? Should we trust the government and vote with it, or would you rather have the status quo?

Ms Fontaine: Jeez.

Mr Carr: Well, that's my choice. That's what I have to decide on the vote. So that's why I'm asking you.

Ms Fontaine: I would vote for it because there are a lot of good elements in it. The best part is the trust and that it ensures the viability of our forest. I mean, if we don't have the forest, we're not going to have the communities.

Mr Carr: Good. Thank you. Good luck.

The Vice-Chair: Thank you very much for your presentation, et de nouveau merci pour votre présentation.

Interjections.

The Vice-Chair: Could we have some order here, please. We're not quite finished yet. Even though the list of presenters for the morning is now completed, we do have the last presenter who's here. If we move him up, this will give us a little bit more time to get ready for the plane if that's agreeable with the committee.

HEARST FOREST MANAGEMENT INC

The Vice-Chair: Next is Hearst Forest Management, Mr Denis Cheff. If you'd give the copies to the clerk. You have half an hour, and I think you heard the previous presentations. If you'd leave some time for

questions and answers at the end, it would be appreciated. Go right ahead.

Mr Denis Cheff: Mesdames, messieurs, I'm Denis Cheff, manager for Hearst Forest Management. Hearst Forest Management Inc is a company that was set up in 1986. It's a private company. Shareholders are Lecours Lumber and Malette Inc. It has been entrusted with 12,000 square kilometres of forest west of here, and it's responsible for planning of all activities on the forest as well as the actual work responsible for the various programs that are done on what we call the Hearst forest.

Hearst Forest Management supports in principle Bill 171, which is An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario. We cannot but support legislation that advocates sustainable forestry, legislation that provides for better provincial standards, legislation that guarantees community involvement and legislation that introduces a more reliable funding mechanism for silviculture. It was inevitable that we be directed to focus on the forest as a whole instead of just concentrating on timber. Although not yet well defined, we have to somehow come to grips with concepts like ecosystem. This bill also addresses issues that previously tended to remain in the background, issues like underutilized forest resources, timber surpluses, third-party licences, independent audits and enforcement.

Although in the right direction, the act is not quite delivering what we were led to expect through the Carman exercise. The concepts or principles developed by industry with Carman seemed more positive and more progressive in some aspects than some contained in this bill. Instead, the bill seems to have adopted the tone of the recommendations from the environmental assessment report which advocated a more guarded and sceptical approach for dealings between industry and the ministry.

The Carman approach was promoting a significant reduction of MNR staff for the new business relationship with industry. Through a climate of trust and cooperation between industry and the ministry, we were convinced that as much as 25% of MNR staff could be reduced and that the savings could be directed towards silviculture. Through this trust and cooperation, the ministry would have slackened on the monitoring activities and judged industry's performance on the results achieved in the forest. Building on trust and cooperation, we were confident that the private and public sectors could meet the challenge with less red tape and less documentation.

Judging by the tone of certain sections of the act, it seems that industry still needs to prove that it is honest, competent and responsible. In spite of more than 15 years of industry and the ministry working as partners in managing the forest through the forest management agreements and in spite of numerous independent audits and reports that have shown, without a doubt, that we have been doing an exceptional job as a team in regenerating the forest, the act seems to imply that industry is basically untrustworthy and incompetent.

Instead of reducing staff, it is likely, with the introduction of this bill, that the ministry will be adding personnel to watch, to guard and to monitor. The act refers to a

lengthy section of remedies and enforcement. This has to mean more monitoring, more policing, more controls, more ministry staff. Therefore, instead of savings, we see more expenditures. We don't see this lean, mean machine that could have been to manage efficiently the forest. It is apparent that for government, big and large is still beautiful.

The act refers to the development of a series of five manuals: Forest Operations and Silviculture Manual, Forest Management Planning Manual, Scaling Manual, Forest Information Manual, and it introduced also a regulation manual. These manuals will adapt existing regulations and guidelines to the new realities highlighted by this bill. It will now be forest management instead of timber management.

We appreciate having been consulted, even if it was at the 11th hour, to review the draft of these manuals. One of our staff has been involved with the exercise of preparing these, and he has been swamped with documents. He left yesterday for the Sault for another session, and so much is being thrown at this work committee that he gave me the impression that he was lost and that he was really pressured to put something together at the last moment. We hope that the ministry will take the time required to refine those manuals and make sure that they reflect correctly the intentions of this bill as well as the needs of all involved with the forest.

We expected planning to be less tedious and less expensive. A five-year timber management plan presently requires two years of serious work and it carries a pricetag of over \$350,000. We expected that the period of preparation could have been reduced and thereby affecting favourably the costs of planning. The impact that the environmental assessment report seems to have had on this bill assures that the planning process will be longer and more expensive, thereby imposing more on the limited resources of industry.

1140

One of the most positive elements of this bill is the introduction and implementation of the forest renewal trust fund and of the forestry futures trust fund. The creation of these funds will make life much more bearable for the managers of the forest. They will be able to rely on these funds to execute the programs that have been planned for the forest. Managers will know at all moments how much funding there is available in the fund and will no longer have to rely on approximate funding established by vague formulas at the whims of the civil servants. Since each forest management unit will have control of its own trust fund for silviculture, the incentive will be there to do efficient and cost-saving practices in the forest. We will no longer be faced with providing services or programs with partial and insufficient funding as is occurring this year for our forest.

The weak part of this particular section is in the formula used to collect the funding. We have no qualms with the ministry setting aside a portion of the crown dues to build the forestry trust fund, but we do have serious reservations about the residual value stumpage formula. Others previous to myself have addressed this and elaborated earlier.

We must emphasize that we are terrified of the probable negative impact of that measure. We are all aware of the roller-coaster nature of the economics that relate to the lumber market. The lumber industry has experienced a profitable economic period in the last year, but let us not forget the three or four years preceding that period of prosperity. Things were very grim, and we all know that these times will return. The only question is when. The pattern of the last 40 years is clear and quite predictable from period to period.

The minimum stumpage that has been established, the \$6 per cubic metre towards the forestry trust fund and the \$1 base for government, will be very hard to meet during the hard times. The depressed lumber markets of a few years ago could have never generated enough money for sawmill companies to survive with today's obligations. A sawmill strapped with today's crown dues, reaping yesterday's lumber prices, could not possibly make it: the minimum stumpage is too high and so are the area charges. Area charges doubled last summer, and this bill does not introduce any mechanism to control or prevent the ministry from doubling them next month.

Sections in this proposed bill clearly promote fairer agreements with the communities and with licensees, and they advocate better access to underutilized forest resources. We were still hoping for clearer sections dealing with land tenure and wood supply for the industry. With the introduction of this bill the ministry is stressing even more than ever industry's financial commitment to the forest. Industry is directed today to pay more dearly for the wood fibre through increased stumpage and area charges and it is obligated to regenerate, tend and protect a forest with no guarantees of being able to harvest tomorrow. We are constantly reminded that it is not the intent of the ministry to revise the license area boundaries—of this we are fairly reassured—but we were expecting some measure to prevent the constant erosion of our land base.

In spite of the high rent, areas charges, that we pay, and of the silviculture obligations that we have, we continually lose to reserves and other interests. We lose 15% to 25% of our land base to moose corridors, to stream, river and lake reserves, to squirrel and caribou, to outfitters, to angler and hunter interests, and there are more. If government expects industry to invest, prosper and survive, it will need to protect it. If government needs to remove land areas because of public pressure, it will need to redress the losses through exchanges or direct financial compensation. Also, to discourage interest groups from asking for anything and everything, government must promote the user-pay concept. It might be more acceptable to the taxpayers of Ontario to have large areas of the forest frozen by moratoriums if the other users were required to pay the same area charges as industry to protect these specific areas.

Finally, we have no difficulty endorsing the section that deals with the setting up of local citizens' committees. Through the years, we have worked in close cooperation with the surrounding communities and, more specifically during the last two years, we have managed the forest by consulting the other stakeholders in a more

formal and organized manner.

Through the Hearst Stakeholder Advisory Committee we have collaborated with the other users of the forest to resolve conflicts, promote education and better planning. However, this bill does not specify how the members of these committees will be selected. It does not describe their terms and conditions and is quite vague as to their mandate. Although this measure will mean more meetings, more preparations, more presentations, more follow-up reports for management, we realize that consultation warrants it. The general public might rejoice, but it should realize the magnitude of the work and the weight of responsibility that come with the right to consultation.

To conclude, we reiterate that we support the broad principles elaborated in this bill. We just find it deplorable that the wind of trust and cooperation of the Carman exercise was swept by the blizzard of the recommendations of the environmental assessment review. Thank you for giving us the opportunity to vent our concerns.

The Vice-Chair: Thank you for appearing before the committee and speaking at this time rather than later on in the afternoon. There are some questions by the members of the committee. Mr Brown.

Mr Brown: I first must say I found this brief to be one of the most well prepared and informative ones that we've received to date. You might want to tell the members a little bit just about your organization and how it works as it operates the FMA, as I understand it, in Hearst, even though there's a number of companies operating under it. I think it's a model that could be used in other parts of the province.

Mr Cheff: We are now the only cooperative FMA in the province. Chapleau used to be in the same bag as we were. We have a mandate to address MNR directives for a set of operators. We have two major conifer operators, Malette Inc and Lecours Lumber, and we also have a directive to provide timber to Constance Lake First Nation which is located nearby for 5,000 cords annually. We also need to find poplar for Levesque Plywood and also for Weldwood.

We are in the particular situation where we have to shuffle more than the one-operator FMA because there are quite a few parties there to satisfy. In that sense we're quite different, I think.

1150

Mr Brown: It appears to work well. We've heard this kind of problem discussed in other areas, and this may be a solution at least for some, where we have a lot of talk about third-party operations and what not.

Just to come back to the residual value tax, to my mind, this mechanism, if it was dedicated to the forest, may have some advantages to you. For example, if the base rate could be lowered slightly and kind of a median where you would be at the same level and during good times you would pay more, that would provide an opportunity in the bad years to maintain your forest renewal programs at a suitable level and yet not be paying so much fees into it in a time of reduced lumber prices.

Mr Cheff: Right. There would be some consolation

there for sure, and some reassurance. That matter of residual tax is a bit hard for us to fully comprehend at our level, because really the industry and the ministry are still negotiating that part and the perceptions vary. The industry perceives it as a double tax; the ministry perceives it as an adjustment.

If it were established that it was really one or the other, I think we'd have it a bit more clear in our minds in the end. If it's a tax, then you can offset the bad years with the good years. Apparently this formula wouldn't permit that, so it's a matter of definition and establishing exactly what it is, but at the moment we're preoccupied because industry, sawmills in particular, is quite adamant about not accepting it at its face value.

Mr Hodgson: We've mentioned before this residual tax or whatever the government wants to define it as. One of the reasons why they want it to go into the consolidated revenue fund is the government needs revenue. I was interested to read the first page of your report—this was brought up by Mike Brown, who spoke first on the first day of our committee hearings—that there's no cost-benefit analysis yet for us to look at, in terms of what will this bill cost Ontario taxpayers for the ministry to administer it. You've stated here in your report that you were led to believe or maybe you have documentation for this that there would be a 25% reduction in MNR staff and the savings could be directed towards silviculture. Was that directed to you in writing?

Mr Cheff: No.

Mr Hodgson: We've asked for the ministry to give us a cost-benefit analysis.

Mr Cheff: The 25% may be the more optimistic picture, but the basis, when we were negotiating or exchanging rather with the Carman people, was that the direct contribution of the government would be in savings through the elimination of a certain percentage of staff, and to do that, you needed as a basis a climate of trust and cooperation.

This is part of the recommendations of the roles and responsibilities committee, one of the subcommittees of Bob Carman. This is the way that it came out. Industry participated in that subcommittee, and we were quite pleased to see things going in that direction, but we don't see—

Mr Hodgson: Mr Chair, if I may, this committee should be made aware of what's going on with the Carman exercise. I realize it's a confidential negotiation, but it will play an impact on what should be in this bill. If government's truly just to set the standards and the policies and let industry do the actual work and the government enforces the standards and does the enforcement, then we should know the savings on that, where the ministry wants this to go.

The Vice-Chair: I take it that that's a request to the parliamentary assistant.

Mr Hodgson: Yes, it is.

The Vice-Chair: Actually it has been mentioned, although it wasn't within the meeting that perhaps at some point we should reserve some time for some discussion with ministry officials and the parliamentary

assistant, and if that's agreeable with the committee, perhaps when one of the cancellations are happening, we'll do that, and perhaps the parliamentary assistant and the officials will be able to answer some of these questions.

Mr Hodgson: I appreciate that. Thank you.

The Vice-Chair: Any further questions?

Mr Hodgson: In the interest of brevity, no.

Mr Bisson: First of all, I'd like to thank you for your presentation and I would like just to say up front that I come from the community of Timmins and I'm very much aware of the work that your forest management agreement has done. Actually, it's probably one of the models when it comes to the way that forest management should be done, and I think that should be recognized.

I think far too often in the industry we're not very quick at pointing out in the forest industry some of the good stuff that we're doing and we get branded with a bad name as people who go out and just cut trees and don't do nothing about it. You guys have been quite proactive, you've been quite good at what you've done, and I think that needs to be recognized and I'd like to do that through this committee.

In saying that, Bill 171 is not intended to be an affront or intended to be a punitive thing towards the industry. What we recognize is that we've learned a lot over the years. The private sector has learned many things about how to do its business better. Your business is not only cutting trees. You know as well your business is regenerating the forest, because without that you won't survive.

I think we need to look at Bill 171 as a piece of legislation that enables us to do that in a more sustainable way, when it comes not only to the sustainability of the forest but to the economics of it. I want to come to the point—the other thing I want to say is in reference to your 25% of MNR. One of the things that's happened over the last couple of years is that MNR staff in this area has already been reduced by about 25% through the expenditure control plans, attrition and others. So a lot of the reductions that you talk about, unfortunately for MNR staff—I'm sure that they would like to see more staff—is that there's already been a 25% reduction in the overall size of that bureaucracy.

Mr Cheff: But we were hoping that these reductions would be converted and directed towards silviculture.

Mr Bisson: That's part of the attempt of what we're doing here. I want to come back to the point that not only you but many people have made from your industry, and that is everybody paying their fair share for the use of the forest.

The value of a hectare of forest for you and the lumber industry is obviously worth a lot more money, if you take a look at your resale value of that forest, than it would be, let's say, for a hectare of land used for the tourism industry. I wonder how we rationalize in the end that everybody pays the same area charge, \$102, because the amount of money you get on that hectare in actual money generated is far more than the tourism industry. How would we set that up?

Mr Cheff: But we adjust that with the crown dues

afterwards, you know, when we cut the fibre. No, I think it's not exactly the same, but I think we have to peg a number there and if we're going to be freezing areas of interest, people should know that it's going to cost. Otherwise it's very easy. Presently you can jam the whole system just by showing up at an exercise and talking about the pleasure of looking at such a tree at such an angle. The process is stopped, and no one can go in. There has to be a clear message that to be able to do that, there's a cost.

Mr Wood: Thank you very much, Mr Cheff, for coming forward. I'm pleased that you're saying you've been able to support the broad principles of the legislation.

I just want to go back. I'll address some of the concerns that the PC Party has brought up at a later point, but I just want to point out that on page 6 you're saying that you're not sure what the committee's role will play and how they will be appointed. This is spelled out pretty clearly in the environmental assessment ruling that came down, I believe, around page 30, and the government is bound by that.

Now this came down, I believe in the middle of May, and the Bob Carman exercise, the negotiations that were taking place, were in the process of happening. The environmental assessment, the ruling had come down, and a lot of the studies that had been out there, the consultations that had been out there, were all brought together along with the Carman exercise, and as a result, we end up with Bill 171. The regulations, the manuals, and the Bob Carman exercise is still proceeding, and we're looking to have some agreements in place in a very short period of time.

Mr Cheff: But there's still a place for interpretation how far: it's going to be advisory, it's going to be more than that. It's still not as clear as maybe it should be. I think we have an opportunity here with the bill not finalized to put in a few more strokes.

Mr Wood: Yes, and I agree with you that during the next sessions, I believe they're going to be the end of August or early September, another working session on going through the manuals and seeing what changes have to be made, these things can be clarified in the manuals and the regulations, I'm sure.

Mr Cheff: To get back to one of Mr Bisson's comments, just during the previous presentation, I don't think we have to regulate these committees too much. The community just comes forth almost naturally. The formation of our particular stakeholder committee, it depends on the issue that's on the table. Basically we have 30 members but we don't have 30 different members around the table at each of our meetings. It depends on the issue that's on the table that particular month or day, and the interested parties come forth and they make themselves aware.

The Vice-Chair: Thank you very much, Mr Cheff, for an excellent presentation. You have stimulated the debate, and we're getting some briefing, I understand, from the ministry at some point in response to some of your remarks. Again, thank you very much and good luck with your work.

We'll be back at 1 o'clock. This committee stands adjourned.

The committee recessed from 1202 to 1305.

KENT VIRGO

The Vice-Chair: Okay, this committee is in session again. We're continuing our hearings on Bill 171. Mr Virgo has given a presentation this morning already on behalf of Spruce Falls. This afternoon I understand you're here as an individual, and certainly we appreciate your presence again. You know what the process is, so please go right ahead.

Mr Virgo: Thank you very much, Mr Chairman. I'm very pleased to be here this afternoon and speaking to this committee. I'm speaking, as the Chair has said, this afternoon from a different perspective, really two different perspectives other than the perspective I was speaking from this morning. One is as a professional forester and one is as a family man and a northern Ontario resident in a single-industry community.

I am a registered professional forester with over 23 years' experience in managing timber resources in this area, 22 of them in Kapuskasing and just over a year in Timmins, where I started out, and during that time I've utilized and been involved, employed the Crown Timber Act, if you will, from both sides of the fence. I've gained insights both from the government side, where I spent 10½ years with the Department of Lands and Forests and then the Ministry of Natural Resources, followed by 12½ years from the industrial perspective managing a large forest management agreement area. I was involved with the development at a field level of an FMA in the first place and have been very involved in implementing the forest management agreement on the Gordon Cosens forest.

I was also very deeply involved in the timber class environmental assessment, which many of us spent about five years of our lives on, a process which—I'm not sure it ended recently, but it gave some results recently. I was involved from an industrial point of view in that regard through involvement with the Ontario Forest Industries Association.

Secondly, I'm a family man with a lovely wife and two near-adult offspring, both of whom were born in Kapuskasing and raised here for their entire lives, one aged 22 and another one 18. I own a home and a cottage in the Kapuskasing area, and with 23 years invested in northern Ontario, after a lifetime of building equity in these properties, they almost became worthless in 1991, and you all know the story behind that, when it appeared that our major industry would essentially disappear. I don't know whether any of you who don't live in small, one-industry towns can picture this, but during that two-year period, if you drove up or down the streets of Kapuskasing or out the highway in either direction, literally every second house or third house had a for sale sign up.

Now I own shares in a company with a potentially great deal of promise and I do not wish ever again to go through the kind of hell, the kind of experience we went through in that two-year period. That's why I'm speaking

before you today. I've read the act very carefully and there are obviously elements of it that I feel very strongly about professionally and individually, and I could not pass up the opportunity.

Professional concerns first of all: I'm concerned about the process, which I believe is lipservice consultation.

I don't know; I've been raised basically, in terms of my working life, in an environment where I've been told regularly that consultation was the name of the game as far as government and acts and the way things are going, and certainly the way the timber management planning process has gone that's been the way.

I think it was mentioned earlier today, as a result of the EA hearing, the length of consultation process to write a timber management plan—a timber management plan, not a forest management plan—as dealt with under the EA has gone from about 180 to 200 days to over 300 days. That's the amount of consultation that goes into one of those.

Especially, the lack of consultation with regard to the regulations and the draft manuals, which we've only received recently, and even then only as a result of my working environment. Even though I was on the list as an individual to speak here, I never received any information in that regard as an individual. There's been very little review of the manuals or regulations by professionals with a cross-section background of resource management. As I say, it suggests to me that the government is paying lipservice to this consultation.

Len Wood this morning alluded to the fact that the Ontario Forest Industries Association was playing a part in writing these manuals. Well, that didn't even begin until the last week of June. So they've been involved in writing the manuals for a total of five weeks, and some of the people who have been involved in writing those manuals were thrown together and thrown out to meet the deadlines of August 2 so quickly that some of the individuals didn't even have the opportunity to read the manuals before they went out. People were working on little parts and it was thrown together like a soup and nobody got a chance to taste the soup.

The second professional concern I have is with the conceptual nature of the legislation. Although we can all probably agree on the desirability of the concepts around which this legislation is built, that is to say, the sustainability of crown forests and the move to forest management as opposed to timber management, ecosystem-based management etc—every one of us can agree with these—once we leave the concepts and begin the process of defining them in such a way as to manage them, the various factions of the public, and professionals for that matter, will part company. The fact that these terms and the intentions of the government with respect to this are not well defined in the act—in the act—so that they can't be changed on a whim from time to time causes those of us who may be expected to manage under this legislation real gas pains. The definitions must be non-conceptual and in terms that can be enumerated, delineated, evaluated and managed.

The move to forest management is premature for legislative action. We are years, if not decades, from

being in any position to carry out the broader concept of forest management.

The second document I passed out to you, which you should have, is an excerpt from the decision summary of the Environmental Assessment Board that came out in April.

Remember, the EA was a timber management EA, not a forest management EA. There were a lot of NGOs that would have preferred that it be forest management and there was a great deal of argument—you can go back to the transcripts for that if you like—that the EA should have been a forest management EA, not a timber EA. But the board ruled that it was a timber EA, that it couldn't change what the proponent had argued that it be, a timber EA, and in its ruling—I would refer you to "The Future" section of this document, down to the latter half of the second paragraph and beginning of the third paragraph—the board, which listened to all of this argument—and remember, this was a hearing that took place over four years and 70,000 pages worth of testimony and reams and reams of exhibits—says:

"There appears to be a consensus in the forestry community that integrated forest management is the most suitable long-term approach, but realistically much work needs to be done on exploring its feasibility in Ontario before it can be fully implemented.

"Although MNR is committed to integrated forest management, before its practice becomes a reality we need answers from the scientists. The first important question is sorting out the means of conserving or maintaining biological diversity."

I'll leave the quote there, because my point is that we're not there today in terms of being able to carry out forest management per se. We haven't sorted out the mechanisms for tradeoffs. We haven't sorted out how to manage the black flies, which are a component of the ecosystem, to lean to the ridiculous side of this.

What parts of the forest ecosystem are we going to manage? The entire province of Ontario is a forest ecosystem. So is each individual forest management unit, so is each region, so is each stand, so is each working group. Which ones are we going to manage? These kinds of things haven't been sorted out.

Processes and mechanisms for determining who does and who pays for what elements of forest management and how must be worked out. It's not fair to expect the forest industry to bear this entire burden, as seems to be suggested in this legislation. Science and technology must advance a long way first, as stated by the timber EA board. Trust must be built between the various stakeholders interested in the future of our forests. Many of us are working very hard for that to take place. The community forest venture here in Kapuskasing is an example of that trust-building that has to take place, but it's not something that happens overnight.

Simply changing the word "timber" in "timber management" to "forest" will not bring about these changes. In fact, it tends to add to the government's credibility problems, no matter what side of the equation you look at it from.

I'm concerned, as a professional forester with management experience, that this legislation will put many professionals in an untenable position of not being able to fulfil expectations, not being to deliver forest management, which under the act we would be expected to do.

I'm also very concerned, as a home owner in a single-industry town and a shareholder in that industry, that this legislation will over time lead the forest industry towards a slow decline, bringing many northern Ontario citizens and towns down with it. Again, I don't want that to happen again. It certainly hurts both the investment climate and our ability to compete with other jurisdictions, such as the southern USA.

This is well-intentioned but poorly written legislation and it has been developed in a hurry to meet a political agenda. It's bad legislation and it should be opposed. It should not be passed.

Mr Hodgson: Thank you very much, Kent, for coming back again. I've really enjoyed your presentations. This bill's designed, you say, as a political document where they can say: "We're going to sustain the jobs in northern Ontario. We're also going to sustain the forest ecosystem so that we can tell Europe and tell people who are concerned about that that this bill's the cure-all for all their problems as well."

Concerns have been raised since June on what they're trying to sustain should be done in such a way that there should be quantifiable amounts. For instance, if you know the timber supply that's going to be required to keep jobs available in this community, maybe that should be detailed in one of the manuals for this project.

What concerns me, and you've said it better than I could ever say it, is that science isn't up there. We don't have a benchmark or a base to measure where we're going with this. But you're suggesting that we not approve it at all.

One of the concerns we've run into from groups that we've heard from is that the status quo in terms of legislative powers isn't working very well, yet from the forest industry they've said there are a lot of studies that show that you're doing a good job. Do you have any comments on that? You're suggesting that we not pass this legislation the way it's presently presented and poorly written, but is the present situation very good?

1320

Mr Virgo: Well, I would say that the present situation was not very good, particularly as it pertained to timber management, and the current bill is currently focusing on timber management and the funding of timber management. Recently, the Budget Measures Act and revisions to the existing Crown Timber Act brought in provisions for the forest renewal trust fund and so forth, and I think those measures addressed the key concerns about timber management.

I believe, as I've stated, that we should be heading towards forest management. I think that perhaps should be government policy, that we head towards forest management. But you set policy, in my view, to direct the science and the technology and the mechanisms, the building blocks, to be created before you put it into

legislation and expect it to be implemented. The EA board ruling sets up provisions for that kind of thing to occur.

The industry suggested a provincial policy advisory committee be set up—it's not even mentioned in this act—involving a cross-section of stakeholders, including the environmental groups and the native interests and everyone else involved in forest management, and it could help set the stages through policy direction towards the building of those blocks that will eventually lead us to the situation where we can carry out forest management. I think once the science and technology gets there, then I'll be all for legislating forest management.

Mr Carr: Yes. I think the people of your community deserve a great deal of credit. You mentioned some of the problems you've gone through. To see how everybody pulled together and to make it a success I think is a true model and it goes to show what people can do, and for that I think everybody in this community deserves credit and people in Queen's Park can look to this as a model of what can be done.

Having said that, I can appreciate your big concern. You say in here that the bill shouldn't be passed. If during clause-by-clause, some of the amendments address some of those problems—and it's along the lines of what Chris asked—do you think we can still take this bill and make it good enough that you would say to me, as a member, "I think you should vote for it now"? Is it that far out that we should start all over, or do you think there can be some amendments made that will make it acceptable for you to say, "I'd like you to pass it"?

Mr Virgo: The difficulty I have is that the act is built on concepts and that, as a manager or a professional, I can't manage concepts. If changes to the act can be made so professionals and land managers or resource managers can manage and they have specifically laid out the rules of the game so that it's clear what they're managing, then yes, it could be accepted.

The problem is that the premise of this act is so conceptual in nature and there are three or four ecosystem management—forest management as opposed to timber management, the sustainability of crown forests, whatever that means, are so conceptual in nature that the minister, for example, who under this act has to be satisfied that a forest management plan provides for the sustainability of the crown forest—since that's not defined, he can be challenged at any point in time that he's not meeting that measure. How can any professional meet that measure if the minister can't?

Mr Carr: Thank you very much. Good luck. Good job.

Mr Wood: Once again, thank you for your presentation, Kent, that you've brought forward.

You mentioned in discussions that you had with me there are going to be further workshops within the next short period of time to review the manuals and make sure the manuals and regulations are what should be there now and into the future to be able to have a sustainable ecosystem the way we could define it today, with the assistance of the professional foresters.

You're saying in number 3, and I don't know how to interpret this, that we are years if not decades ahead to carry out forest management. Are you saying that the government is ahead of what the professional foresters are able to do at this point in time, that legislation like this should have waited for another 10 years?

Mr Virgo: I'll go broader than that. I'll say the government, with respect to forest management, is ahead of what any group can do. The science and technology and mechanisms, the building blocks, other than the timber management equation, are not in place to carry out broad forest management. And you can change the manuals and regulations all you want for now, but since they can be changed unilaterally from one side any time all the way along the line, it becomes a matter of trust: trust in the government. It becomes a matter of credibility, and frankly I'm not sure the government has a great deal of credibility right now, if you want to be—

Mr Wood: I visited Spruce Falls' woodlands operations on a number of different occasions and visited the original forest, visited the forests that had been harvested and the ones that had been planted back in the early 1950s, and there's no doubt about it, Spruce Falls, under the old Kimberly-Clark, New York Times, did a fantastic job of making sure their second growth and the third growth are going to be there for years and years to come. But not every operation throughout Ontario has done that, and this is what the legislation is intended to do, to address some areas. You go 50 or 60 miles away from here, we had a presentation this morning saying that there's not going to be any trees to run sawmills because it wasn't managed properly. Our children and our grandchildren want to see something on a sustainable basis. Maybe it's not perfect, but I would like to see you present us in more detail what you think you can live with in Bill 171 and what you think should be amended by all three parties.

Going back to when the legislation was introduced, I believe it's the first time in the Legislature, maybe ever, that all three parties had a chance to make comments, and supportive comments, on first reading of legislation and they were very favourable leading into the process that we're doing now, going out for public hearings and looking for feedback from the community saying, well, Bill 171 is maybe not what has to be there. There might be some sections that have to be amended, but we have to head in this direction if we're to solve the concerns that there are that other countries might say, "Well, you're not harvesting your forests on a sustainability basis; we're going to block your products from coming across," as they threatened to do with the chlorinated paper, and we've heard the softwood lumber arguments that have happened in BC and in Ontario; a number of these things.

We had to do something with the results of the environmental assessment, and this is a step in the right direction. As I said earlier, I think either now or before the hearings end, we could get some comments on what you think we can live with.

Mr Virgo: I'd like to respond to what you just said, and I would respond in three areas you just addressed.

Number one is with respect to other areas as you defined it, other companies. My response to that is that the marketplace and the financial communities to invest will look after that far better than intrusive legislation ever would.

I bring out again certification. In the States, for example, and this is growing and it's growing very rapidly, basically to sell your lumber you have to get it certified and tracked all the way through the system that it's coming from a sustainably managed forest. The same thing is happening very rapidly with respect to pulp and paper products. I think, Len, you're aware of the combined efforts of the CPPA and the Canadian Council of Forest Ministers and the Canadian Standards Association where they're beginning to work very rapidly towards leading the way in the world scene to certification of Canadian forest products, to standards that we all have to meet that will certify our products as coming from sustainable forests. If you don't get certification, you aren't going to sell your product. Likewise, if you're not environmentally sound, financial institutions aren't going to loan you the money to modernize. Those things are far more effective than government legislation ever will be.

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Furthermore, in response to your concern, and you raised the example that was raised this morning about loss of timber, again my response to that is that the kind of shortage of resources that caused that problem has been rectified, in essence, in the existing Crown Timber Act, through the Budget Measures Act and the bringing in of the forest renewal trust funds, and those concepts I can certainly go along with, but that's now part of the existing Crown Timber Act. That's why there were not comments made by me earlier in that regard, because it's part of the existing equation.

Furthermore—

Mr Wood: I would just—

The Chair: No, I'm sorry.

Mr Ramsay: He can take some of our time.

The Vice-Chair: Okay, fine. Go ahead.

Mr Virgo: You spoke of the environmental assessment. The environmental assessment was a timber environmental assessment, it was not a forest management environmental assessment, and in terms of concepts, that's what this act has changed.

Mr Wood: The only comment I wanted to make was the fact that I've been informed that the province, no matter who's in government, is the landlord of the crown forest and crown land that is out there, and I'm sure the Liberal Party wants to make comments on that.

The Vice-Chair: Your time has expired.

Mr Brown: I understand the kind of difficulties Kapuskasing's been in. I represent Elliot Lake, and the result in Elliot Lake wasn't nearly as happy as it ended up being for Kapuskasing. The devastation in the community with for sale signs, not on every third house, on virtually every house in the place, is something that nobody wants to live through.

We, I think, have had some of the same difficulties

you have. This act is like trying to get a firm grip on Jell-O. You just really don't know what it means. We've had groups from both sides—from industry, from environmental groups—come in and say, "Well, gee whiz, what do you guys mean by sustainability?" There's no definition of that in the act, and a bigger one in my mind is the definition of ecosystem, and you made that point. I don't know what ecosystem they're talking about, and I'm not sure what ecosystem they're trying to either maintain, which is not necessarily the thing to do, or to achieve, because, for various reasons, we all know the forest goes through various rotations. Which one do you want? Is it the one today or is it one that was here 20 years ago or is it one that you want 40 years from now?

Mr Virgo: Exactly.

Mr Brown: So we've had the same kind of difficulties you've expressed in terms of, what does this act mean? In some ways, it's been suggested to me that this is kind of a greenwash. We've used all the bright and nice buzzwords to make people feel warm and fuzzy, but at the end of the day, have we really achieved any of it? I don't know.

The Vice-Chair: A brief response?

Mr Virgo: I don't think so. I think you've done just that, and it detracts from government credibility because it's clear that you've done it, that that's what's been done. Regardless of what group you are looking at, it hurts credibility, because you've tried to fool people by changing, in "timber management," the word "timber" to the word "forest."

Mr Wood: The EA says we have to do it.

The Vice-Chair: Thank you very much for your presentation. It's appreciated that you share your experience as a, how do you say, Kapuskasingite? I'm not sure.

Mr Virgo: I'm not sure either.

The Vice-Chair: As a resident of Kapuskasing.

Mr Virgo: Very good.

The Vice-Chair: And as someone who makes his livelihood right up here.

6/70 COMMUNITY FOREST

The Vice-Chair: The next presenter is Bill Greenaway. He will be speaking for Community Forest. Perhaps you can tell the committee what the Community Forest is. You have half an hour, and if you'd like to leave some time for questions and answers, please. Go right ahead.

Mr Bill Greenaway: Good afternoon, Mr Chairman, ladies and gentlemen. I'm a registered professional forester and assistant manager of the 6/70 Community Forest pilot project. I am here speaking in my capacity as assistant manager of this community-based group. Our pilot project is one of four Community Forest pilot projects that the Ministry of Natural Resources initiated in 1992. Each of these pilot projects is part of the community forest initiatives within MNR's sustainable forestry program.

My comments regarding the proposed Crown Forest Sustainability Act focus on elements that I feel will affect the sustainability of our forests and the future of groups

such as the 6/70 Community Forest. My comments do not reflect the individual opinions of any specific stakeholder interests within our Community Forest. Each of these interests may have its own opinion on the proposed legislation. Some of these opinions will differ from mine.

The 6/70 Community Forest pilot project believes that all people have the right to become actively involved in discussions and to participate in shared decisions about forest resource issues. We believe that shared decision-making increases awareness and understanding of the importance of sustaining the local forest resources. We believe it encourages communities to become more accountable and responsible for the local resources, and will ultimately lead to empowering communities to produce forest resource plans that will address local needs.

With these beliefs in mind, I welcome the specific provisions within Bill 171 that will formally recognize local citizens' committees and allow the creation of forest management boards. Establishing local citizens' committees and forest management boards under Bill 171 will give local groups a greater say in how their forests are managed. These provisions within the bill are essential if our group is to move beyond the pilot project stage. Our goal is to include forest stakeholders within the Community Forest area in making decisions regarding sustainable resource management. As a forest management board under Bill 171, our group would be able to meet this goal through delegated decision-making authority.

As several provincial forestry initiatives have been ongoing during the last few years, it is difficult to foresee how these will come together. Bill 171 could allow our group to make forest management decisions as a forest management board. I am concerned, however, that the defined functions of a forest management board and the definition of "forest resource" under the bill will not allow our group to make all the types of decisions we wish.

Many of the interests that are represented on the Community Forest have a different definition of forest than what is implied in Bill 171. Anglers, hunters and trappers, for example, view the forest as including wildlife, trees, water and other components that are found within a forest. Under section 2(1) of the bill, "forest resource" is defined as, "Trees in a forest ecosystem and any other type of plant life prescribed by the regulations that is in a forest ecosystem."

The Community Forest is presently interested in lake planning, wildlife management and land use planning as well as forest management. We definitely want to become involved in planning for all aspects of the forest. Not knowing whether other legislation will grant the powers of delegated authority, I am concerned that this bill will not allow our group to make decisions in areas outside of what we formerly called "timber management."

As assistant manager of the 6/70 Community Forest pilot project, I recognize first hand the amount of work that will be involved in supporting groups such as local citizens' committees and forest management boards. The draft Forest Management Planning Manual under the bill states that a local citizens' committee will develop its

own procedural matters. I am concerned about the adequacy of support given local citizens' committees under the draft Forest Management Planning Manual. Not all those who will be interested in serving on such groups will have previous experience as a chairperson or committee member. Both local citizens' committees and forest management boards will require proper support and adequate training to be effective.

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An effective local citizens' committee or forest management board must also have a means of communicating with the public. These groups cannot advise or make decisions in a void. They must have a system of communicating with the general public so that their views represent the majority. As local citizens' committees are now required, more thought has to be given to situations where there will be difficulty forming an effective committee.

Forming such a group will not come easy in all areas. Now a requirement, will a forest management plan be held up when such a committee cannot be struck? Some areas may not want or need one. A token group will just be a waste of time and money. Local citizens' committees will have to write reports, yet it can be difficult to get some members to attend meetings. I believe that if these groups are to become permanent institutions as stated in the timber class environmental assessment, they must have their own independent support.

I am also concerned with the wording under section 12 of the proposed Crown Forest Sustainability Act. The bill states that the minister "may" establish local citizens' committees; however, the Environmental Assessment Board's decision on timber management states that the minister "shall" establish at least one local citizens' committee for each district and, where needed, one for every management unit. The word "may" implies that the minister has a choice as to whether or not to set up these committees.

From my position with the 6/70 Community Forest and as a registered professional forester, I generally support Bill 171. With regard to sustainable forestry, I view the proposed legislation as a major step in the right direction. The provisions for trust funds under part V are essential to ensure that forest managers have the dollars to effectively renew our forests. Forest sustainability depends on sustaining adequate levels of funding. I believe that these provisions will provide incentive for cost-effective forest renewal and ensure that a suitable amount of the forest revenues go back into regenerating our resources.

I believe that this bill will lead to easier and more equitable access to surplus forest resources through the provisions of joint licensing under section 35 and through the provisions under section 21 calling for a competitive process for the disposition of surplus resources. These measures will distribute the demand for resources more equitably among management units and allow for improved utilization. I feel that a competitive process will ensure that the licensee that gets the forest resource is the one most likely to use the resources in an efficient and sustainable manner. This will help to ensure a strong forest industry as well as a properly managed forest.

I believe that the provisions under section 13 concerning forest operation prescriptions will ensure that the public and forest managers have a basis to judge the effectiveness of specific harvesting and renewal practices. This information will allow successive managers on a forest unit to know what works and what doesn't. This will help ensure that the future structure of our forests will provide the projected needs of our mills.

The proposed enabling legislation is a practical tool that will allow the Ministry of Natural Resources to adapt to information and the changing needs of the public. I support a concept that will require changes to regulations and manuals in order to keep the legislation in line with sustainable forest management. Changes and additions that can be made without obtaining prior legislative approval will save time and money, while allowing for better forest management. However, legislation that will offer the Ministry of Natural Resources greater flexibility should not add unnecessary administrative steps to other forest users. The committee should listen attentively to the views of all forest users. This legislation should strike a balance between Ministry flexibility and a stable business environment for the forest industry and other forest resource users.

In concluding, I believe that the proposed legislation reflects the decisions of the Environmental Assessment Board on timber management. In addition to providing provisions for a group such as the Community Forest to move forward to delegated decision-making, the bill is a positive step towards achieving sustainable forestry. The proposed enabling legislation will allow the ministry to adapt to new information and the changing needs of the public. It will ensure that funding is available to renew our forests. It especially allows for greater public involvement by giving formal recognition to local citizens' committees and by allowing the creation of forest management boards.

Although I am in support of many provisions within Bill 171, I believe that several terms still need to be redefined and clarified. These include the definition of "forest ecosystem" and the meaning of "forest" within the context of a forest management plan. I also believe that more time should have been given to review this bill and the accompanying regulations and manuals before these hearings. This would have allowed for better and likely greater public scrutiny and would more than likely result in a better and more widely supported piece of legislation.

Mr Derek Fletcher (Guelph): Thank you for your presentation. As this committee travels around we sort of get into a quandary. I just finished listening to a professional forester, a registered forester, who's totally against this bill. Now I'm listening to another registered forester who generally supports this bill. I think one area that you agree on is the definition of the concepts. I think that's what the other presenter was talking about also.

As we go around, we have heard quite a bit about definitions and it has been explained that with the changes that are going on in technology and everything else it's hard to put the definitions into a concrete, written-in-stone sort of way in the legislation because of

the changes. I don't know if I agree with that or not, because I think that you can be flexible in legislation.

I'm just wondering: When it comes to sustainability, what kind of a definition do we look at, and when it comes to ecosystems, what do we look at, how far do we go, how far abroad do we go? Any comments on where we start?

Mr Greenaway: I think both of those terms still need to be further defined, both "forest ecosystem" and "forest sustainability." Within the proposed legislation the definition of "forest ecosystem" could just about include any area within the province including my backyard, and I think that the comments on the part of the forest industry are valid in that they have to have some quantifiable parameters put on things that they're expected to manage.

Mr Fletcher: I know, yes. A tough one, isn't it?

I'm done, thank you.

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Mr Wood: Thank you for the excellent presentation that you've come forward with in written form and delivered today. I just want to go back to page 3 where you're saying that there seems to be a misconception that the environmental assessment ruling says the word "shall." The government did not appeal that ruling and the word "shall" is in there and that the minister shall or must have local committees is binding on the government, so the word "may"—we should take a good look at that in the amendments.

You're saying that you're pleased with parts of the bill that will lead to easier and more equitable access to surplus forests through provisions under section 35. What do you see developing in this particular area? I know you're involved in the economic development of the Community Forest. If there is a surplus of, no matter what it would be, poplar, birch, spruce, what would you like to see developed in this particular region along the 6/70 area?

Mr Greenaway: It's difficult to comment specifically in this area. I think that the northeast hardwood project is a good example of how resources should be allocated using a competitive process and I'd give the ministry the powers to look at different proposals and decide on the basis of which proposals are going to lead to the best management of our forests as far as sustainability. But sustainability still has to be defined before those types of decisions can be made.

Mr Brown: This competitive bid process has intrigued me somewhat in that we have been looking for the criteria upon which the competitive bid will be assessed. Could you give us some idea of what criteria should be in the bid? Obviously it's not just who can pay the most money for the particular wood.

Mr Greenaway: I'm not referring to who can pay the most money for the wood when I'm talking of the competitive process. But I think in a competitive process there are several things that have to be considered. One is the need for that wood and the ability of individual companies to utilize those resources in an efficient and sustainable manner. There may be limited resources in

certain areas and there may be 10 different companies vying for those resources. It would make the most sense for the sustainability of jobs and the forest to give that wood to the company that's in the best position to utilize those resources. If you give the wood to a company that is going to be bankrupt in a year, in two years both of those companies could be bankrupt.

Mr Brown: I guess the point I was making: If I'm going to be making the bid, I would like to know the criteria upon which the bid is going to be evaluated, and so far we've seen none of them. Mr Ramsay has a question.

Mr Ramsay: I enjoyed your presentation, Bill, and I really agree with your idea that we really have to make the community advisory committees a mandatory part of this legislation. The problem we would have, though, before we'd make such an amendment, would be that we would like to know what the makeup would be. So I would ask your advice today as to how your community forest group works. Who's on it? How do you arrive at decisions? How does that flow through to the final decisions of cutting and timber management?

Mr Greenaway: We're still in the pilot project stage and we're struggling with those issues all the time. We haven't come up with a solid structure. Right now a lot of the interests that are represented on the community forest are the same interests that are suggested for a local citizens' committee within the Forest Management Planning Manual. We attempt to make decisions on a consensus basis, but failing that, it's a majority vote. One of my main concerns is that within the Forest Management Planning Manual, it's asking local citizens' committees to develop these procedural matters themselves.

We're a pilot project. We've been in existence almost three years and we still haven't worked out all those matters. So I think it's a lot to expect of a group when they are volunteering their services on the weekends and in the evenings, to work out a lot of that. I think they need adequate training. They need advice on how these types of committees should operate.

Mr Ramsay: I guess you would agree that it's important, obviously, to get all the interested groups together around the table. We need, actually, all the extreme views at the table so we can start to try to find some common ground.

I'd just like to suggest that there are some working models in Ontario already. One of the biggest, I guess one of the first, forestry disputes, where people collided in their ideas of how the forest was to be managed, was 20-25 years ago with Algonquin park. Of course, now we have the Algonquin Forest Authority that's been running fairly successfully. It shows that it can happen, and there's lumbering even in the park.

I would hope that through this and other means we can get people working together and keep a sustainable forest industry going, because it's very important for the north. I wish you well on your project.

Mr Carr: Thank you very much for your presentation. A lot has been made regarding the definition, and there's two reasons that I think the definition is difficult.

One is it makes it easier to get a government bill through: If you don't define it, you don't have too much opposition. Everybody comes in and you can tell both sides whatever they want to hear.

The other reason is that you can't really come to a consensus with all the groups: the community groups and the industry concerns and all the different players. It's very difficult to come to a consensus so that everybody could say, "I would like this, but I can live with this," and really come together.

Do you think it's possible to get a definition, knowing all the players involved, that everybody can agree to—not necessarily everybody. But do you think we can ever come to a consensus that we can really, truly say all the players are a part of?

Mr Greenaway: I think it's possible. I think it has to be something that's quantifiable. It can't be a vague definition and open to interpretation. For example, the definition of "forest ecosystem," if I can read it, means "an ecosystem in which trees are or are capable of being a major biological component."

Being "capable of being a major biological component"? Trees can be a major biological component in many areas. I think it has to be further defined if people are going to work around those types of definitions.

Mr Carr: Have you had a chance to go through some of the regulations in the manuals at all?

Mr Greenaway: Very briefly.

Mr Carr: It's hard to comment on, I guess.

Mr Greenaway: It's tough to comment on. I've read the act. I don't profess to be an expert on the act. I think that if there had been more time to actually go over the manuals along with the regulations and forest policy, I would be able to get a better picture of how all of the different pieces of the puzzle fit together.

Mr Carr: I think the parliamentary assistant has stated there'll be another workshop where you can have some involvement. So hopefully, with the work that you do now and staying up nights and reading it, you will have the input.

You're pleased with the overall thrust. If some of the amendments are made that tighten up some of the things that you've talked about in the presentation, then you're going to be happy with this bill and would recommend that we pass it, then?

Mr Greenaway: Today I'm trying to present a perspective on a range of forest interests. I see a lot of good things in the legislation. I think that it can be made into a good act, but a lot of the concerns of the individual stakeholders need to be addressed.

Mr Carr: Thank you very much. That's very helpful.

Mr Greenaway: Thank you.

1400

GREEN FOREST LUMBER CORP

The Vice-Chair: The final presenter for the afternoon will be Mark Stevens speaking for Green Forest Lumber Corp. We have all received a copy of your brief, for which we thank you. You have half an hour with some time for questions and answers. Please go right ahead.

Mr Mark Stevens: Thank you very much, Mr Chairman and members of the committee. I welcome and appreciate the opportunity to share a few of my views with you this afternoon and, in doing so, I've tried to keep it concise and focused on a few issues, although given the topic at hand, it's not always that easy and my thoughts go well beyond those few subjects that I address this afternoon.

I represent the sawmill division of Green Forest Lumber. Green Forest Lumber owns and operates two sawmills in Chapleau, Ontario, and is also a major wholesaler of forest products throughout North America and abroad. We're also a member of the Ontario Lumber Manufacturers' Association.

Generally, we support the principles of the bill: to sustain our forests, our industries, our communities and our jobs.

Our industry provides thousands of meaningful, well-paying jobs in the north and, in many cases, such as the town I come from, Chapleau, it's the backbone of the community.

We see this bill as the framework of a series of reforms that we think will benefit our industry, our communities and our forests for the long term. In some ways, we don't expect the bill to necessarily answer all our concerns and address all our problems. So much of what we do actually happens at the field level and requires the good judgement of those charged with the task at hand.

Two general comments about the following issues I'll discuss briefly: One is that I, myself, hope that the act, the regulations and the manuals and the implementation of those will help do away with some of the inefficiencies and avoid some of the inefficiencies that we presently have in our forest management system. Nothing frustrates me, or those I work with, more than undergoing a process that appears to provide no meaningful results.

The second general comment I wanted to make before I start is that production of the manuals, as you've heard from others, has been done in very short order. You can see that quite easily from the duplication and the spelling mistakes throughout, and I am somewhat concerned that an issue of such importance is being rushed through rather quickly. I have been known to be a critic of MNR for a slow review and approval process, and it certainly appears that they've done just the opposite in this case.

On to some specific concerns I have, and my first point is one that you're probably not going to hear too often, if at all, throughout these hearings, but it's one that I wanted to address, and that deals with the forest industry's use of aggregate resources. Presently, those resources are dealt with and governed by the Aggregate Resources Act and it's our belief that that Aggregate Resources Act was designed and legislated primarily to control the extraction of aggregate by large commercial aggregate producers who use the aggregate for sale and profit.

Given some recognition of that, royalty and rehab deposits for those who use aggregate for the construction of crown forest roads has been waived. However, there

are other onerous obligations. We go through one heck of a process to be able to use aggregates and our biggest concern with that is it really serves no meaningful purpose. Therefore, I would hope that the Crown Forest Sustainability Act could possibly address this issue and take governance of the use of aggregates by those persons or companies that are licensed under the Crown Forest Sustainability Act.

Pre-harvest silviculture prescriptions: Actually, in going through the present draft of the manuals and the act, the term "pre-harvest silviculture prescription" doesn't come up, but it's a term that has been used throughout the Carman exercise and appears to me now to be replaced by the term "operations prescriptions or forest operations prescriptions." Actually, it's rather vague in here right now, and I really don't know what it means, but it concerns me because of some of the previous discussions that I've heard with respect to pre-harvest silviculture prescriptions. I think they're an inefficient use of our time and money. They serve little purpose, particularly when silviculture treatments and outcomes are normally predictable in the boreal forest.

Again, one of my concerns stands out here in that I feel that we must streamline our processes and eliminate those processes that do not offer improved results. I feel that the needs some people are assuming will be addressed by operations prescriptions can be met by the use of silviculture ground rules.

The allowable harvest or the calculation thereof is an issue; I'm not sure if it's of concern or not. It's somewhat addressed in section 26 of the bill and again in the Forest Management Planning Manual. Presently, harvest levels are determined on an area basis. It appears in section 26 that it might be suggesting that harvest levels be governed on a volume basis and if that's the case I have some concerns. I feel it's most appropriate to maintain control of harvest levels on an area basis.

Timber supply and best end use: I don't have all the answers, I just have some concerns but, quite simply, surplus timber—and there obviously has to be a process for identifying timber that might be surplus—should be directed to those mills that have a shortage of timber, and an effort should be made to do that. I think in the past, essentially, it's been a lack of effort to do that. Sawlogs should be directed to sawmills and pulpwood to pulp mills; best end-use philosophy that our company and the Ontario Lumber Manufacturers' Association have long promoted. You shouldn't have sawlogs going to a pulp mill when there's an abundance of chips or pulpwood that could satisfy the needs of the pulp mills.

Penalties—I believe this used to be within the regulations and now I see it in the Forest Operations and Silviculture Manual—and wasteful practices: The two go somewhat hand in hand. We have concerns that the present penalty system, as was defined and prescribed in the former Crown Timber Act, is outdated, and we feel that new penalty systems should reflect the relative frequency of infractions per hectare harvested, and I'll just elaborate on that for a minute.

Presently, a penalty system recognizes frequency but in a very simple sense. If you've got one infraction or

two infractions or three infractions, the extent of the penalty increases in that sense, but if you're a small operator versus a bigger operator, there's an inequity there, because a small operator that cuts 100 hectares a year is going to have—let's say a small operator and a big operator cut 10,000 hectares a year and both have three infractions. Let's say they have one infraction for every 100 hectares they cut; in a relative sense the small operator is only going to face the minimum penalty. Maybe that's fine, but if the big operator is having a lower relative frequency of penalties, given the amount of area that they're operating in, managing, they automatically go up—the extent of the penalties increases—without regard for the actual amount of area being covered by that operator. You can have a pretty darned good operator covering 10,000 hectares a year and you're bound to have some infractions and penalties. The problem there is that they're going to get to the maximum in a hurry.

Whenever penalties are assessed or whenever infractions are reviewed, I feel there should be a recognition of the impact upon the value. In some cases now because of restrictions on cutover size, where we're drawing arbitrary lines through the bush to limit the cutover size and there's a trespass across the cut boundary, you're essentially cutting timber that is identical to the timber you're cutting, it's really not serving to provide for any value other than to limit the size of the cutover. Although I recognize that as an infraction, I don't consider it as serious an infraction as if you trespassed on an AOC, a water-crossing or other similar circumstance and I don't think the impact upon values is appropriately addressed by the penalty system.

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The magnitude of the infraction: Obviously, if it's a very small infraction that someone recognizes right away, it was unintentional and the attempt is made to stop immediately, I think there should be some consideration given for that, as opposed to a large, flagrant infraction which obviously resulted from a total lack of concern.

A reasonable cost for the infraction, in terms of penalties—the penalties should match the infraction to some extent. One of the problems we have right now is that the cost of crown dues for the sawmill industry has quadrupled in the past three years and if we're assessed a penalty of five times the cost of crown dues, all of a sudden we're paying \$50 or \$60 per cubic metre of wood harvested, as a penalty. That's a heck of a lot of money and I'm not certain if those who have drafted the wording for the penalty section have considered that.

With respect to wasteful practices, my only concern there is that presently one example of a wasteful practice can be not harvesting a tree that is 10 centimetres outside the bark, regardless of its height or length. In many cases, I believe that such small timber is better left to provide for habitat, aesthetics and seed sources, and by being forced to harvest such a small-diameter tree, it really serves no purpose to the industry itself.

Sustainability: Obviously, it seems that everyone is asked about a definition for sustainability and it's a buzzword more than anything, in my mind. It's a con-

cept; a positive concept. As we try to improve the way we manage our forests and achieve some of the concepts, like sustainability or maintaining biodiversity, we have to be sensible about it. We can't change from black to white overnight. These processes are slow and it's going to take time; even with the best of intentions, it's going to take some time.

I guess my real concern is that if we set targets for ourselves that are far too high and that we never have a chance of truly reaching, too soon we're bound to fail and we should be setting targets that we can achieve. Hopefully, those targets will progress in the direction in which the government and people of Ontario want to progress.

Sustainability of the forest industry is obviously something that's of great concern to me because I'm employed by the forest industry, but also because I live in northern Ontario, having been born, raised and living here and I see what the forest industry does to contribute to the way of our lives in northern Ontario. I constantly see—and I probably am sensitive to it because my job is within the forest industry—threats to the sustainability of the forest industry by people who truly have good intentions, but some of those threats include essentially land base withdrawals. Parks, remote tourism, recreational users, old growth preserves, Keep it Wild areas and various types of reserves are all good things in their own right, but as you implement all these new good things, you have to be concerned about the impact upon the forest industry—or at least, I should say, I hope you are concerned about the impact on the forest industry.

If you have a concern about the sustainability of the forest industry, as you remove these portions of the land base you should be recognizing that there will be some impact on the industry, some impact on jobs in the communities and hopefully trying to quantify them. If that type of assessment is not done or considered, you could see the forest industry suffer and 10, 20 years from now you might wonder why, but by then it's going to be too late.

There are also some invisible withdrawals that concern us in the forest industry in terms of our ability to sustain our current operations and those are some of the issues, such as biodiversity, habitat management, new silvicultural practices and the harvest prescriptions, all of which have an opportunity to remove timber volumes from areas that we presently, or have in the immediate past, had the opportunity to access. If our ability to access the volumes which we have counted on, which we have used in the decision-making process to invest in new mills, we could quickly find ourselves short of the required volumes that were planned to go through the mills.

I think I've already addressed my final point. The implementation of new legislation, regulations and manuals must consider the potential impact upon the existing forest industry. The government and the people of Ontario must know what impact this new legislation will have upon our jobs, our community and our industry, as well as the benefits that will be provided to our forests and the province as a whole.

Mr Ramsay: Mark, nice to see you again. I enjoyed your presentation and some of the positive ideas you put forward.

I'd like to get your view on an idea that was presented to us yesterday in trying to work out the timber supply problem, best end use and third-party agreements, because in a sense they're all kind of related to the same thing: How do you get proper direction of the wood in a rational way and in a sustainable way?

The idea that was presented to us yesterday was that if you're looking at third-party agreements, rather than give those out on a per-species basis, do it on a working group basis so that you work in your area and you collect your poplar and your birch and your conifer, whatever it is, in that particular area, and then you'd sort out with the companies the other wood, rather than everybody trampling over each other saying, "Okay, my poplar's over here." So you run your truck down over and across the other person's area to get your poplar. I wondered what you thought about that as an initial idea of trying to maybe sort some of this out.

Mr Stevens: Initially my first comment would be that I don't really expect this piece of legislation to address the specifics of wood supply problems, and these are the kinds of things that have to be done at the local level. But I would hope that the legislation would provide the concept for best end use and proper use of our forest resources.

There are pros and cons to pure species licences versus working group or area licences. You can look at it either way. I think those decisions really have to be addressed best at the local, perhaps regional, level because so much depends on the players involved. If you have an operator who's only capable of harvesting jack pine and spruce and they don't recognize birch veneer when they see it, you're not doing a good thing to put them on an area licence or a working group licence, yet at the same time if you have an operator who on the other hand is very efficient at making maximum utilization of all the various forest products within his area and you only license him jack pine and spruce, you're not taking advantage of what he has to offer. You have to look at the mills in the area and what their needs are, what their own infrastructures are for managing and harvesting the resources. I don't think you can deal with it in a broad-brush approach, it has to come at the local level.

Mr Ramsay: So what you're saying is we need flexibility in order to work that out on an area-by-area basis almost.

Mr Stevens: Yes.

Mr Ramsay: Okay. The other point you made, and I think it really needs emphasizing, especially for my urban colleagues because, as you say, many of these ideas that people have such as new parks or expansion of existing provincial parks—certainly at first glance it's a great idea. We all believe in parks, but I think many times it's not understood by many people, especially the people in southern Ontario, what this actually does and the impact this has on the forest industry. If we're going to ask the industry from time to time, like we are now through this legislation, to accept a fairly major new package of new

rules, there has to be some certainty of tenure of what the land base is. I think that's a message MNR, from the parks branch, has to understand. There's not much room for more withdrawals of the land base in northern Ontario. We've had quite a bit of this and I think this is a message we have to get out and I'm sure you're concerned about that as a forester.

Mr Stevens: I'm very much concerned. Not that I would necessarily be happy with it, but inevitably there will be more withdrawals. All I can possibly hope for is that if any withdrawals are proposed, they be carefully considered to ensure that they are indeed serving a purpose that is greater than a loss of opportunity provided for timber harvest.

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At the same time I think there are areas out there that are reserved in one fashion or another that could possibly provide timber volumes that could be done without impacting on other values. It's the pendulum going one way. In some ways it's gone too far and we should go back; in other ways it's going to continue to go. I guess what I'm really asking for is that a careful assessment be done to ensure that if something is being withdrawn, it certainly fulfils a required value. And at the same time in those other areas that are presently reserved, we should go back and look at them and see if we can't get some timber out of them without impacting the values.

Mr Ramsay: Just a quick statement, Mr Chair: I really agree with that because I proposed that in 1986, that instead of total withdrawals, you could get into some very sensitive areas with a bit of horse-drawn extraction, for instance, right down even to a shoreline and take out some of the pines that are going to be going down and probably keep it pretty pristine the way the people who look at that shoreline would like to see it, but at the same time add some value to the forestry industry. I think we have to be flexible—

Mr Wood: Was that before or after you crossed the floor?

The Vice-Chair: Please, order.

Mr Hodgson: I'd like to thank you. I found this very interesting. I just have a bunch of little concerns, but I might run out of time so I'll ask you the bigger issue and that is: In your conclusion you're saying that policies must consider the potential impact upon existing forest industry. This bill, as you know, has been billed to sustain jobs in our communities up in northern Ontario and throughout Ontario. The forest industry has huge spinoffs for the whole economy of Ontario.

Under this act, section 19, it states, "The Minister shall from time to time prepare a report on the state of the crown forests." Are you suggesting that maybe we should do a forest audit and report to the House on the state of the forests? Based on that report, we could do a cost-benefit analysis to what impact this act will have before we take it to third reading.

Mr Stevens: I think some impact analysis should be considered before third reading. I think if the government is proposing legislation that's going to have an impact, the government and the people of Ontario have a right to

know what that impact's going to be. I don't know if the government's actually going to do it. I'm probably sceptical in that sense.

If it's having implications on jobs and industry—and I really don't know right now if it's going to or not, it's kind of hard to read the act and interpret whether or not it's really going to impact on jobs in the industry. I strongly believe we should have some assessment done before—

Mr Hodgson: The benefit to that would be we could define goals and set targets and move towards that.

Mr Stevens: Definitely, goals and targets—I was going to perhaps address this if anyone wanted to know what my thoughts were on the definition of "sustainability." Sustainability's such a fuzzy target, such a fuzzy concept. It's a positive concept, but we all have a hard time coming to grips with what it really means. I'd sort of suggest that we back up and ask ourselves—well, we're saying of course sustainability is desirable—what do we really want in our forests? We should set some goals and some targets and get more precise in terms of what we really expect to get. In that way you can also more precisely understand what the impacts are going to be.

Mr Hodgson: So the forest audit idea before we go to third reading would be agreeable to you.

Mr Stevens: I'm not entirely certain what you're meaning by an audit. I guess perhaps I twisted your question; I'm sorry if I did.

Mr Hodgson: No, you answered it correctly. I'm not certain either. It's spelled out in the manuals, but it's under section 19 of the act. Maybe that could be done ahead of time.

I had a couple of other just small questions on the silvicultural section. You've gone through the manuals, obviously.

Mr Stevens: To some extent, yes.

Mr Hodgson: Yes, and you'd like to see the process streamlined and have it results-oriented, so the ministry would set the standards and measure the results.

Mr Stevens: Very much so.

Mr Hodgson: And you find that the present manual doesn't do that.

Mr Stevens: The present manual has actually changed its form several times over the past month and it's been hard to keep up to it. I am sensing that a year ago when we were discussing the changing in our business relationships with the Ministry of Natural Resources it was lending itself to a much more results-oriented approach.

What I'm seeing now is less of an end result, results-oriented approach to a monitoring, monitoring, monitoring approach and unnecessary bureaucratic processes along the way.

Mr Hodgson: You realize we've asked for the MNR to give us a cost-benefit on their budget as a result of this act as well. I'm glad to see you mentioned that.

Mr Wood: Thank you for coming in from Chapleau to make a presentation in front of the committee. From what I've been able to gather, you're saying that the

manuals, the way they're being proposed and updated—when you'd use the words “sustainability” and the “ecosystem” you feel they should be able to update them and make changes as required as we move over the next while?

Mr Stevens: Yes, I see that as a positive aspect of it. I think the term “adaptive management” is used. We have to be not only flexible but willing to change our approaches as we learn from our past.

Mr Wood: Okay. Along the same lines, the feeling from the number of people I've talked to is that as there is surplus forest available, surplus wood available, the announcements that we've made over the last number of weeks concerning Wawa, Thunder Bay and Kenora is the right approach to take to helping to sustain some of these communities, create new jobs and help out the different communities with the wood that is sitting out there that nobody can make use of.

Mr Stevens: Mixed feelings on that, perhaps, because we're one of the proponents that has not had our desires satisfied in that regard, and also not knowing all the process that the ministry went through to assess the various proponents. It's hard for me to say. There has to be some type of analysis and system in place. Obviously, I think one of the biggest irritants in this whole recent northeast hardwood proposal is that one person had the jump of the gun and had the support of the ministry prior to a competitive type of assessment of opportunities. I think the way the ministry ended up was probably the right or appropriate way of doing it, although I don't have all the inside knowledge to know what it based its decisions on.

Mr Wood: The point I was trying to make is that if there is surplus wood, the approach of trying to create jobs in other communities or add to an operation of your kind would be the right approach to take, rather than just leaving it sit there as surplus in some cases.

Mr Stevens: Absolutely.

Mr Bisson: One of the things I just wanted to make you aware of is that you make the point, as a follow-up to the Conservative question, in regard to quantifying what exactly we have in the forests in regard to timber, and I think that's a legitimate concern in the sense it has never been done in the past. For whatever reasons over the years, ministries and governments of time past have never tried to quantify that.

One of the things we're trying to do, and there is a process now you should be aware of, is to get a better sense on what's out in the forests so that we're in a better position to make decisions about how we go about, not disposing, but sharing the resources out there.

I want to come back to your best end use point, because it's one that's been raised by a lot of people, especially in this area, because I think here we have a bit of the same problems that you have in Chapleau in regard to allocation of timber.

There are basically two ways that can be done, as I see it. If, let's say, there is surplus wood on a crown unit or on an existing FMA that is sustainable in the sense that the existing licensee doesn't have need for that timber,

they have more than they can handle, there would only be two ways of doing it: You can put it up for tender, at which point people within a sort of an economic zone around that forest would basically bid on it, or you would have a system by which you would have to have proponents put forward proposals of why they need the timber and be able to demonstrate the largest degree of need.

How would you see that process working? We all agree on best end use, but nobody can quantify exactly how to do that.

Mr Stevens: I don't really think that strong-arm tactics are required to achieve best end use by taking someone's surplus and putting it up for tender. I really think that best end use can be achieved with government support for the concept and encouraging parties to enter into those types of agreements.

Mr Bisson: Let me try to clarify that. We agree with the premise that if you've got sawlogs, you want to use them for sawlogs. You don't want to use them for pulp.

Mr Stevens: Right.

Mr Bisson: We all agree. We think that's great stuff. The problem is that there may be four or five different people out there, different organizations, who need that timber for all kinds of different reasons.

Mr Stevens: Right.

Mr Bisson: In my area, I can think of three or four mills that would like to be able to get some of that timber. If we agree that we have to have best end use, what's the best way to determine who gets those logs?

Mr Stevens: Okay, you're talking about two subjects at the same time. You're talking about best end use; you're also talking about timber shortages.

Mr Bisson: Yes, I mixed two things and I should have said one.

Mr Stevens: How do you decide who's going to get the wood when there's not enough wood to go around?

Mr Bisson: What I'm saying is that if we're—

The Vice-Chair: Any thoughts on that? I guess we'll have to conclude.

Mr Stevens: No. Give me the job and I'll come up with an answer for you.

The Vice-Chair: Well, that's probably as good an answer as any.

Interjections.

Mr Bisson: Seeing that you are unable to answer, the point I would like to make out of this is that as you pointed out in your answer, these are not simple issues as easy as saying best end use is a good policy. We all agree, but they're difficult things to deal with because there's a lot of competition out there for the same resource.

The Vice-Chair: Okay, thank you very much.

Mr Stevens: Could I just add a little bit?

The Vice-Chair: Okay.

Mr Stevens: Mr. Bisson, really you're talking about timber supply and sawlog shortages, as opposed to best end use, okay? It's imperative that the government understand best end use and ensure that, regardless of

whether there's a shortage or not, sawlogs go to sawmills and pulpwood goes to pulp mills.

The Vice-Chair: Okay, thank you very much for your presentation, it's certainly appreciated. As you can see, it stimulated quite a bit of interest. There will be taxis waiting here at quarter to 3 and I understand the local member would like say a little something, and I think we can grant that to him.

Mr Wood: Thank you, everybody, for coming to

Kapuskasing; we were able to work that out through the subcommittee. I hope you enjoyed your stay here even though it was short. Have a safe trip back and we'll see most of you in Thunder Bay on Monday morning.

The Vice-Chair: Thank you very much and thank you to all the people who are here and who are following the proceedings. I hope you learned something from it. This committee stands adjourned until next week.

The committee adjourned at 1432

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**In attendance / présents*

Substitutions present / Membres remplaçants présents:

 Bisson, Gilles (Cochrane South/-Sud ND) for Mr Wessenger

 Carr, Gary (Oakville South/-Sud PC) for Mr Arnott

 Fletcher, Derek (Guelph ND) for Mr White

 Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson

 Jamison, Norm (Norfolk ND) for Mr Mills

 Miclash, Frank (Kenora L) for Mr Sorbara

 Ramsay, David (Timiskaming L) for Mr Grandmaître

 Wood, Len (Cochrane North/-Nord ND) for Mr Morrow

Also taking part / Autres participants et participantes:

 Wood, Len, parliamentary assistant to Minister of Natural Resources

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Luski, Lorraine, research officer, Legislative Research Service



Legislative Assembly of Ontario

Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Monday 22 August 1994

Journal des débats (Hansard)

Lundi 22 août 1994

Standing committee on general government

Crown Forest
Sustainability Act, 1994

Comité permanent des affaires gouvernementales

Loi de 1994 sur la durabilité
des forêts de la Couronne

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STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 22 August 1994

Lundi 22 août 1994

The committee met at 0907 in the Valhalla Inn, Thunder Bay.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Vice-Chair (Mr Hans Daigeler): We're continuing the hearings on Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario. Good morning, everybody.

The first presenter isn't here yet. However, we have one business item that I would like to deal with before we perhaps ask the second presenter, because they're here, to sit at the table. Mr Wood, on behalf of the ministry, would like to make a proposal to the committee regarding our trip to Fort Frances.

Mr Len Wood (Cochrane North): Tomorrow afternoon, I understand that we're leaving here at around 4 o'clock and we'll arrive in Fort Frances around 4 o'clock, which will leave about an hour to get into the hotel rooms. Then we have a two-hour tour planned which will mean three or four stops in the woodlands operations so that we can see the different types of silviculture that are out there and different prescriptions and give you a chance to talk to some of the foresters out in the bush. We have that scheduled. If there's no opposition to it, we'll proceed with those plans. As I say, everybody should be back in their hotels by 7 o'clock, Fort Frances time.

Mr David Ramsay (Timiskaming): I think all the support staff should go also.

The Vice-Chair: Anybody who wants to go can come along. Is this agreeable to the committee? I think it's a great idea. We appreciate the effort that is being put forward by the ministry officials to arrange that on short notice. Please go ahead. We're all looking forward to a worthwhile tour. Has the Northwestern Ontario Associated Chambers of Commerce—has anybody arrived there in the meantime? No?

LAKEHEAD UNIVERSITY,
MEMBERS, FACULTY OF FORESTRY

The Vice-Chair: Perhaps we will then ask, since the Lakehead University representatives are here, Dr Reino Pulkki, acting dean of the department of forest management to come forward. I understand you have several of

your colleagues with you. If you'd like to take a seat, perhaps I should just, for the benefit of the people in the audience and for your benefit as well, explain a little bit about the proceedings. Over here are the government members, the parliamentary assistant, Ministry of Natural Resources and the official opposition and the third party at this end.

You will have half an hour to make your presentation. If you would like to leave some time for questions and answers at the end, we'd certainly appreciate that; perhaps 10 minutes.

We also have Mr Lewis Yeager from legislative research, who will be listening very carefully and will prepare a report for us at the end; Pat Girouard from the Hansard services; and in the background, for the recording services, Greg Didiano from the Queen's Park broadcasting service.

If you would like to introduce your colleagues first please, Dr Pulkki, then go ahead with your presentation.

Dr Reino Pulkki: Good Morning. I'd like to introduce my colleagues: Professor Richard Clarke and Dr Gary Murchison from the faculty of forestry at Lakehead University.

Our presentation entails about four pages of comments made by different faculty members. The following does not form a faculty position but is a collection of comments made by faculty members who reviewed Bill 171 and the draft manuals and regulations. The comments are individual in nature and do not necessarily reflect the views of all of the people involved.

Generally, it was felt that the initiative taken by the MNR is very positive. Although the following comments are related to areas where concern was raised, they are meant to be constructive rather than critical. I have listed on the paper there people who have given different comments.

One of the first things that came up almost by all was that since the act deals with sustainability of crown forests in Ontario, there should be a definition of "sustainability" contained within the act and not within the regulations or the manuals.

The act deals with "forest ecosystems" but a "forest resource" is defined as plants. This does not follow current thought in forest management planning or current developments throughout the world, where you're dealing with plants, animals, recreation, aesthetics, water, a whole host of different things. Current forest management should be a holistic view of the forest and not just looking straight at plants.

The definition of "forest operations" is unclear. For example, "use of a forest resource for a designated purpose" is some of the terminology in the act. Does this mean that using a forest resource to provide habitat is a forest operation? This is not very clear. Also, the definition could omit or include certain operations, depending on the interpretation. A possible alternative definition could be as follows: "all in-forest operations and activities related to the harvesting, renewal, maintenance, improvement and protection of a forest resource."

The definition of "forest resource processing facility" is too broad and easily misinterpreted. For example, a processor is a machine which performs at least two functions on a tree. Therefore, do all in-woods full-tree chippers, not to mention stroke delimiters, slashers, delimiter-buckers and harvesters require licensing as forest resource processing facilities? The act should specify in detail which facilities are in question.

The act states that an RPF has to approve a forest management plan, but the minister may approve it, reject it or approve with modifications. The qualifications are not stated for the MNR personnel required for the above process. It should also be pointed out that the environmental assessment decision 62(b)(ii) requires that any alterations of the plan by the ministry be approved by an RPF. This is not mentioned anywhere in the act or in any of the regulations or manuals.

The class environmental assessment decision, on page 81, also requires that the plan author be a registered professional forester. This is not mentioned in the act or in any of the draft planning manuals. There is only an aside, within a caption box—I presume the caption boxes are going to be removed from the manuals—which states that a forest management plan will be prepared by a registered professional forester with the assistance—and then there's a whole group of different people. There's a large section dealing with the plan author and responsibilities, but the RPF requirement is not mentioned anywhere.

The entire act contains a considerable number of, "The minister may...." This leaves major sections and responsibilities throughout the act open to the discretion of the people involved and the minister accountable for very little.

Subsection 13(1) is very unclear. In the act it states, "If preparation of a forest operations prescription is required by the Forest Planning Management Manual...." This leaves it very open and the question becomes, is a prescription required or not? A better reference could be the, "The forest operations prescription shall be prepared in accordance with the Forest Management Planning Manual." If there's any cases where it's not required, then those could be listed.

On clause 31(3)(a), there is no time given in regard to prior notice to a licensee in regard to changes to their licence. It just says that the minister will inform them about changes.

Subsection 32(2): How will changes in corporate ownership be handled? I see that as a very difficult problem, because stocks are trading continuously on the market. It seems quite unreasonable that a corporation

would go to the ministry and ask for the right to take over another corporation.

Subsection 32(3) is a continuation of 32(2). This subsection's purpose is unclear as it refers to the regulations. This subsection deals with omitting certain cases. I was wondering, does this change over time or is it discretionary, depending on the individual or corporation?

Subsection 39(2): In regard to exemptions, research projects should be added. This one was in regard to certain situations where prescriptions are not required; for example, a forest fire—you have to get it out. In some cases, having an entire operating plant to do a small research project really doesn't make too much sense.

The two trusts may be an improvement over current practice, but until it is made clear how they will actually work and be administered, they can only receive qualified approval. For example, the minister "may direct" funds to the forest renewal trust but payment "shall" be made to the forestry futures trust. The working of the fund is vague. What's the real purpose of the forest renewal trust fund if payments are going to be permissive?

In both cases, the minister "may" establish the trust. This should be "shall."

Subsection 48(2): Forestry research should be added to the list of uses for the forestry futures trust fund. This would be research in the operational nature of how different forestry operations would be done sustainably.

Paragraph 48(2)4: The statement leaves an idea that the fund could be used for whatever the minister decides appropriate. The question is, is this what is intended?

Section 51, and this refers back to the definition of "forest resource processing facilities," can lead to considerable confusion and bureaucracy due to the very vague definition of a forest resource processing facility. Under (14) in the regulations it states the minister "may not" require a forest resource processing facility a licence for facilities using less than 1,000 cubic metres of forest resources per year. Quickly, it comes out under what conditions? Why would somebody require it? Why wouldn't somebody require it?

If a forest owner has his own sawmill or fuel wood operation operating with wood from their own woodlot, or perhaps their neighbour's woodlot, what's the rationale of having an annual licence to run that little sawmill or whatever and still pay a fee for it every single year? That's a lot of bureaucracy.

0920

Subsection 53(1): Any operations done in the forest will have some impact or short-term damage to the "water, soil, plant life or habitat for animal life." This states that no operation shall do any damage. This statement's just too vague and subject to wide interpretation, since there's no definition or outline of the appropriate level allowed.

In regard to offences, are people still allowed to remove one Christmas tree per year without committing an offence? By reading the act the way it is, it seems not to be allowed. "Offences" should make provision for remedial/restoration action prior to the fines.

Subsection 66(1) refers to the manuals. They should be

prepared; "and kept current" should also be added to the requirement of preparing the manuals.

Subsection 84(1): This is in reference to workers' compensation fund payments. This should read, "If... forest resources are harvested or used for a designated purpose under the act at the request of or for the licensee, then" the person's responsible for the compensation rates. To give you an example, if someone is licensed to harvest blueberries commercially, it doesn't make sense that a licensee licensed to harvest timber is responsible for them to the Workers' Compensation Board, or even vice versa. The way the act reads now, the major licensee would be responsible.

All forest users need some assurance that the manuals, particularly the Forest Management Planning Manual and the Forest Operations and Silviculture Manual, will reflect sound research and scientific principles. Somewhere the act should recognize the need to have regulation based on scientific evidence and professional expertise and not just reliance on manuals.

There is no mention of independent audits in the act, as specified by the Environmental Assessment Board.

The following comments deal with the draft manuals. We realize that they're very draft, they're initial manuals in quite a draft form, but anyway, page 21 of the regulations reads, "'Productive forest area' means an area with rock barrens, muskeg or lands covered by water." We assume this should read "'Non-productive forest area.'"

All the guides and manuals listed in the Forest Operations and Silviculture Manual must be readily available in one complete package. As it is, many if not most of the guides are very difficult to obtain and require excessive effort to procure individually. I know from my own personal experience a number of those manuals are out of print and you cannot obtain them.

The FOSM, as presented, is very limited in its usefulness. Basically, it is just a directory referring the reader to other manuals and guides.

There are conflicts between the sections dealing with wasteful practices and the requirements for leaving large woody debris on the ground and standing for habitat purposes. These conflicts need to be resolved in the manuals.

The first impression of the Forest Information Manual is one of a major effort in centralized control of information and its availability. Careful consideration must be given when applying universal systems, models and data requirements for the entire province. Otherwise, a strait-jacket is placed on the overall information system and forest planning and development, since the conditions are so variable throughout the province.

In the Forest Information Manual, on page 14-9, sawdust is missing as a product. It's assumed that it's grouped into hog fuel, but sawdust is also used as a raw material for, for example, linerboard and medium-density fibreboards. Bark also is a product by itself as a soil improvement, soil additive or for landscaping.

Comments were made earlier in regard to the Forest Management Planning Manual and RPF requirements.

At the beginning of the Forest Management Planning

Manual and in the act, forest management plans, forest operations prescriptions and annual work schedules are presented. However, after page 46 the manual refers almost entirely to timber management plans. This is not consistent with the new act or focus on sustainable forestry. It almost gives the impression that they took the old Timber Management Planning Manual and moved it into the Forest Management Planning Manual.

In addition to the silvicultural system used, another useful piece of information in the reporting would be the harvesting method used; for example, full-tree, tree-length, cut-to-length.

On page 158, section 4, of the Forest Management Planning Manual, "The methods of harvesting and logging are to be identified." For all practical purposes they're the same thing. Probably "harvesting methods" would be the most appropriate term to use. Just drop the logging out of it. In the Forest Management Planning Manual, pages 253 and 254, wider road corridors allowed in more sensitive areas does not make sense. It would be expected more detailed planning and thus narrower road corridors would be required in areas of concern.

Mr Chairman, ladies and gentlemen, this concludes our formal presentation and we're open to any questions that you may have in regard to this.

Mr Frank Miclash (Kenora): Gentlemen, thank you very much for a very comprehensive review of the material. You've certainly given us a great amount of food for thought here.

One point: During the beginning of your brief you indicated that there was current development throughout the world regarding forest ecosystems. I'm just wondering if you could maybe give us some examples of where that development's taken place and maybe some places where we can get further material on that.

Dr Pulkki: One good example perhaps is in Minnesota, where they just went through a generic—what was it called? It was a generic environmental impact statement, where they reviewed all aspects of forest management and the impacts of forest management on everything from soils to animals to recreation to the economy, and everything. Especially on the western coast in the US, there's a very strong drive towards total forest ecosystem management and not just looking at timber. There's a strong move in that direction also in the Nordic countries, Sweden and Finland. Those are just some examples.

Mr Michael A. Brown (Algoma-Manitoulin): As critic, I'm very happy to get a presentation like this where it clearly enumerates the problems or the concerns that you have.

One of the things you haven't mentioned: In the school of forestry you must also look at the competitiveness of the industry etc in the scheme of things. Has there been any analysis by the university of the impact of these regulations on the competitiveness in Ontario's forests, in particular in the northwest?

Dr Pulkki: There has been no real research directed specifically at these regulations, because they are so new. But there is research going on on the impacts of perhaps the requirement for more intensive forest management

and how will that reflect on competitiveness.

Mr Brown: Have you been having a look at the impact of the results of the EA hearings?

Dr Pulkki: Not on a specific case, no.

Mr Brown: We had one of your colleagues visit us in Espanola, Professor Duinker. He was making many of the points you're making here. He talked particularly about sustainability and was having some of the same difficulties I think you're expressing here.

Do you have a preferred definition for "sustainability," if we were to put it in the purpose clause of the act? Because, to be fair, this is an issue that is raised time and time again by the full spectrum of presenters before us, from the lumbermen to pulp and paper companies to environmental groups. It's one of the difficulties that we're having, kind of trying to get our hands on this *Jell-O*.

Dr Pulkki: I guess I could give one, from one of our faculty members: "'Sustainability' is not defined, although it is the essence of the act. Does it mean meeting the needs of today's population without compromising the ability of future generations to meet theirs, as stated in the Brundtland report? Or is it similar to the dictionary definition of sustain: keep from falling or shrinking, especially for a prolonged period?" He also goes on: "Or does it mean the principles of sustainability outlined in *Direction '90s*?"

None of the faculty members really gave a definition of "sustainability." I guess it could be put together if we had time to do it. But there are a number out there and I guess people just didn't feel like coming up with something new. I don't know if anybody has a preferred one.

Mr Brown: I just have one last question. You make the point, "The definition of 'forest operations' is unclear." We have heard from various presenters who believe that forest operations may include tourism outfitters, it may include canoeists, may include hunters and anglers, may include a whole variety of people or groups, and that in the view of certain presenters they should be charged in a similar fashion for their use of the resource as the operators involved in harvesting. I'm not sure what the ministry intends, but is there a view on—I mean, that might be one reason that it is as broad as it is.

Dr Pulkki: I guess I could give my own personal view. If the major forest resource use for an area would be canoeing, that is, the forest resource is canoeing for that area, they should be liable to whatever fees it requires for operating in that area. You're forfeiting income from other uses so they should be responsible to cover that income requirement. I don't know if my other faculty members have—

Mr Brown: So perhaps the broader definition is more appropriate?

Dr Pulkki: Yes.

0930

Mr Gary Carr (Oakville South): Thank you very much. As has been mentioned, this is an excellent detailed presentation and we appreciate the time that you put in so quickly to get that done with fairly short notice.

Lakehead has a very good reputation, as you probably know, in the area of forestry management. Up to this point, I'm wondering what type of input you've had with the government. As this bill was being written, did any of the experts from your department have any contact with the government? What has happened up to this point with your input into the bill?

Dr Pulkki: I don't think there's any faculty involvement in the actual act, but Dr Murchison has been involved with some of the manuals and I guess he could give some comments.

Dr Gary Murchison: I've attended the various workshops, both on the forest products and on the timber productivity and, most recently, on the writing of the manual regarding Bill 171.

Mr Carr: Good. I don't know if you are familiar. It came out last week that I think the government committed to having another workshop, at least one, because of some of the concerns. Hopefully you'll still be involved in that and be able to participate as well.

Dr Murchison: Based on conversation with a government official last week, I expect to be going to that workshop in Toronto in October.

Mr Carr: Good. Okay, great. As we've heard from various people, the bill is very vague. I don't say this of this government, but all governments do that for a number of reasons, not the least of which is it blunts opposition to a bill when you can talk to both sides and say, "Don't worry, this is what we really need." Again, I don't say that to be political because all governments of all political stripes do it. It's an age-old technique, unfortunately. But what happens as a result is that you get a very vague bill and the regulations are extremely powerful. All governments will say that the reason we do that is to allow for the famous word "flexibility" because things change.

Knowing the industry as well as you do, can you see any reason that we should keep so much into the regulations to allow for the flexibility or do you think it is far too vague right now as we stand with putting so much into the regulations?

Dr Pulkki: The way I read the act, it's way too vague as it is. It should be more detailed in some of the key points; for example, sustainability, the definition of what processing facilities are, what the minister is required to do and not just may, especially in regard to the funds and how they should be used and for what purpose.

Mr Carr: As Mike mentioned, everybody has talked about definition. Everybody has made that point, I think, and is very concerned about it. One of the reasons I think it hasn't been included is because it's very difficult to get a consensus, as you know. You mentioned three or four options, but even you said, "Even our faculty really didn't nail it down." It makes very difficult because people are saying, "We want the government to come up with a definition," but they really can't give us a good one of their own. They've mentioned the various ones.

My feeling is that the reason it isn't in there is because there are three, four, five, six or 10 definitions that various people have come up with but we really can't get

one that everybody would be flexible enough to move with. Is that one of your feelings? With the various concerns of so many of the groups, whether they be citizens' groups or industry, that have come forward, do you think we really can get a consensus that we could put in there that everybody would be happy with? Because there would have to be a lot of give and take. There's a broad range. Do you think we could get one that everybody could live with?

Dr Pulkki: You could get a definition. It would make the majority of the people happy, but there will always be somebody who's not happy.

Dr Murchison: One thing that came out at the discussions at the workshops was that there was a great deal of emphasis on defining "sustainability" and also a major emphasis, or certainly a raised emphasis, on trying to include diversity or some definition of "diversity" or at least addressing diversity directly within the act, those two items.

Again, the people attending it, I don't think some of the people who presented those arguments necessarily knew how to address them. One suggestion that came up was that to define the scope or the scale at which you expect to meet diversity requirements. It's probably very easy to do it on a province-wide basis. It may not be so easy or may be unrealistic to even consider doing it on a stand-wise or very localized basis.

So if there was some definition of the scope or the scale on which you're trying to operate—for instance, on a working-circle basis or a management-unit basis or on a district level or on a regional level—then I think that might help you come up with acceptable definitions of "diversity" and "sustainability."

Mr Carr: My last question is a very simple one. As some of the details were coming out, there were some people when we were up in Kapuskasing who said that with some of the concerns outlined, we probably shouldn't pass this bill as it stands right now. Notwithstanding some of the improvements that you listed here, I take it from your opening introduction that you still think this bill would be better than the status quo, that even if you don't get some of the changes you talked about, we would still be better off by passing this bill than we would be staying with the status quo. Is that your expert assessment?

Dr Murchison: As long as there's no weakening.

Dr Pulkki: Yes, as long as there's no weakening in the intent. No, if a lot of our comments could be taken into account, I would be happy with it.

Mr Carr: Good. Thank you. Good luck.

Mr Wood: Thank you for an excellent presentation based on a lot of knowledge that you've used. It's quite obvious that you've spent the time to go through the manuals and the regulations and the act.

I want to touch a little bit on sustainability and the ecosystem and find out from you if you feel that can be explained in the manuals—if it would have to be necessarily explained in the act itself, or if the manuals and regulations would be sufficient as we're rewriting the manuals.

Dr Pulkki: I would feel the definition of "sustainability" in the act itself would be best.

Mr Wood: There are a number of amendments that you have suggested, and in some of them it looks like there are words that were omitted. The word "non" I guess should have been in there on the third page that you're talking about there. It seems like that was omitted.

I just want to touch on another area. Under the timber act right now—and we've had presentations in some of the other communities—the government or the minister can shut down an operation if there's damage being done in the operations in the bush, compared to the new act, which spells out penalties and up to a \$1-million fine for refusing an order. I just want to get a comment from you on which you think is the best way of dealing with that.

Dr Pulkki: The old act gave very little power to the ministry to control operations. The new act allows the minister to work in phases upward, to first give a warning and get the operator's attention a little bit more strongly before you get into the fines. So I see the procedure outlined in the act as a better one as opposed to the old system in the Crown Timber Act.

Mr Wood: In your opinion and in listening to the presenters, with some of the amendments that you've brought forward and some of the other presenters, do you feel this is legislation we can live with for a number of years to come, that it's something that has to be done?

Dr Pulkki: I see it as a large improvement over the old Crown Timber Act, and we could live with it into the future, yes.

The Vice-Chair: Thank you very much for your presentation. We certainly appreciate the effort you have taken to make your views known to the committee. I'm sure it will be very helpful both for the government and for the opposition.

Dr Pulkki: Thank you very much for the opportunity to give our presentation.

The Vice-Chair: We are in a bit of a strange situation here in that the next two presenters aren't here yet. The presenter for 11 o'clock is here, or the representative of the presenter. However, at one point members of the committee had requested an opportunity to pose some questions of the ministry officials, and I'm just wondering whether perhaps, since we have actually more than an hour free, we can either do that now or perhaps proceed with the Lakehead University representative. What's the view? Would the ministry officials be ready?

Mr Wood: No, we were kicking this around there, that we should hit for a week from today in Toronto.

The Vice-Chair: In Toronto?

Mr Wood: Yes.

Interjection: Mr Squires is here, from Abitibi-Price.

The Vice-Chair: Okay. Well, let's just finish this one, then. Mr Mammoliti?

0940

Mr George Mammoliti (Yorkview): It was just my understanding that when somebody had cancelled out, at that point we would proceed with asking the questions. It's not my understanding—

The Vice-Chair: I would follow the committee, what they wish to do, but members of the committee had expressed the desire to pose some questions to ministry officials, and we had sort of informally agreed we were going to do that whenever the time would be available. But the parliamentary assistant tells me that—

Interjection: My suggestion would be to wait.

The Vice-Chair: —from a staff point of view it would be better next week, if that's agreeable, Mr Brown.

Mr Brown: It certainly is agreeable with the opposition that we wait until the ministry feels prepared to answer the questions we're putting forward. However, both Mr Hodgson and myself, in our opening statements, expressed a large number of both concerns and questions.

I was wondering if the parliamentary assistant could indicate to us that the ministry will in fact be replying in detail to the questions and concerns we raised, because quite a few of them were questions of fact and we were looking just for some answers. If in response to our statements the ministry could provide us with written answers, it would be very helpful to us as we consider this bill.

Mr Wood: Yes, I believe we can do that. On the timing of it, I'm just going to have to reflect back on Hansard and some of my notes and maybe have a discussion with yourself and Chris to update. I think this can be done for sure.

The Vice-Chair: Okay, so with the agreement of the committee we'll aim for some time during our hearings in Toronto. Since we do have a full agenda, we'll have to wait and see whether there are any cancellations, but I'm sure we'll be able to arrange something, even if we have to start earlier.

ABITIBI-PRICE INC

The Vice-Chair: The next presenter, whom I should make very clear is not late, but our committee is early—you were scheduled for 10, so don't feel bad at all, because we had one cancellation so we started with the second presenter and therefore we finished a little bit earlier. We'd like to continue, then. Obviously, I guess it is agreeable with you already to make your presentation now.

I understand you're Malcolm Squires, division forester, representing Abitibi-Price. You have half an hour. If you'd like to leave some time for questions and answers at the end, it would be much appreciated.

Mr Malcolm Squires: Thank you, Mr Chairman. I'll try to be precise and on time. I welcome this opportunity to present Abitibi's views on Bill 171.

Abitibi-Price has been a proactive forest manager in Ontario since the early years of our company. However, we are most proud of our achievements since 1980, when we signed the first forest management agreement in Ontario. We believe our achievements since then on the Iroquois Falls and Spruce River forests, the latter located north of Thunder Bay, are second to none in the province. They have both twice received very favourable comments from two five-year review committees.

These FMAs were made possible by an amendment to the Crown Timber Act supported and encouraged by

industry. We believe the next level of improvement in forest management is achievable through similar government-industry cooperation in drafting effective legislation. Indeed, we bargained in good faith with Mr Bob Carman during the past two years in an attempt to help make that possible.

Abitibi-Price strongly believes that Ontario must have forest management legislation that meets the long-term expectations of Ontario's citizens and world markets. To achieve that, the legislation must provide the resource manager the ability to make wise land-use decisions that sustain the forests for the benefit of all of us. We therefore applaud the government of Ontario for initiating a process of drafting new forest management legislation.

Despite our agreement that new legislation is needed, we draw your attention to the following specific sections of Bill 171 that we feel need change.

We draw your attention to section 18. The requirement to provide information to the minister in section 18 is not yet defined. The Forest Information Manual requirements should not require the industry to provide information that may be of a proprietary nature. The industry should not be required to provide unlimited information to government or the public. Such requests will probably become excessive if there are not clear limits placed in the regulations or the manual.

Subsection 29(2): The proposed wording implies that licence holders will pay area charges for all lands, not just productive lands, as is the current situation. The 1993 doubling of area charges was hard to absorb, but now to find we may be expected to bear additional increased costs in this area seems excessive. The nature of this and other inherent potential cost increases leaves us with the uncomfortable feeling that government really does believe we are a cash cow despite mill closures and cutbacks. It also makes us wonder how much additional cost is hidden in not-yet-disclosed responsibilities that may be passed on to us through the regulations and manuals.

We caution you as legislators that forest management licensees and companies in Ontario are at the limit of costs of the type we cannot ourselves control. Additional government-levied costs could very possibly be counter-productive.

Section 50: The requirements for issuance of a licence for forest resource processing facilities are too broadly defined. As written, mobile chip harvesters, and potentially other harvesting equipment, would require licensing. This severely limits flexibility and we feel it is not realistic. Indeed, we cannot understand what valid reasons government would have for requiring licensing of such machinery. From an operator's standpoint, it adds to the paper flow and process that is already excessive, but more importantly, it has the potential to reduce operating efficiency, interfere in the routine decision-making activities of business and allow government to influence the choice of machinery and system. Our competitive position could be severely eroded by such undue interference.

Section 55: The provisions for increased severity of administrative penalty expose the resource manager to the potential for inconsistent or unfair treatment by junior

levels of the regulatory agency. It is our position that all penalties should be assessed based on acts and regulations and subject to due process.

Section 55 leaves room for a large volume of nuisance fines based on differences of interpretation. A successful lobbyist could avoid the fines, whereas a licensee without the capacity for lobbying would have to bear the cost. Making all fines subject to due process puts the onus on the Ministry of Natural Resources to be certain the charges are sound and non-discriminatory.

There may be other specific sections which change can improve. However, we depend on the collective wisdom of the industry to bring them to your attention.

0950

We do have some general comments in addition to the specifics.

Yes, we believe new forest management legislation is necessary in Ontario, but resource managers must be able to develop new techniques as experience and knowledge are gained. With change there is always risk; however, overemphasis on enforcement and stiff penalties will discourage resource managers from trying new techniques, as the price for failure will be viewed as excessive. In the long term, this may systematically cause Ontario to fall behind in the development of new and innovative forest management.

There is little incentive or reward for the licensee in Bill 171. If the legislation is too punitive, it will cause forest managers to become evasive and possibly wasteful. Some operations could stop far short of the penalty line to ensure the line is not crossed, while others could "make hay while the sun shines," before restrictions become even tighter. The legislation should rather appeal to the resource managers' innovative spirit and desire to excel. We need positive incentives that encourage us to stretch, to test the limits, to explore new methods that are in harmony with the dynamics of the resource we are trying to sustain. The most powerful incentive would be to give us a sense of ownership in the new forests that results from our extra efforts beyond those necessary to achieve the minimum requirements.

We want to be challenged to seek some appropriate higher level of achievement. Some consideration should be given to formal recognition of excellence for those forest management institutions that give Ontario a reason to stand proud when forest management is scrutinized by the world.

The current draft of Bill 171, through potentially excessive information requirements—that's through sections 16 to 18—may add to the already burdensome process of timber management planning. Licensees could be required to absorb unknown cost increases through these and other additions to process.

Licensees who assume regeneration responsibility, invest in the infrastructure and development of the forest, and maintain the asset for the public benefit over the long term should be encouraged. This should continue to be done, as in current forest management agreements, by ensuring access to wood supply through secure long-term tenure conditional on performance. Such security of wood

supply should promote increased investment in existing and, where appropriate, new facilities to secure their sustainability. We can see no section in Bill 171 which clearly gives us such comfort.

We would much prefer to submit to the demands of world markets for more environmentally sensitive harvesting and renewal than to have it legislated. We expect that world market demands for sustainable forest management will be far ahead of legislators' ability to change regulations and manuals. For that reason, the act, regulations and manuals should be so constructed as to ensure licensees will not be hampered by process in responding to rapid change.

In conclusion, we repeat: We applaud the government of Ontario for beginning the process of drafting new forest management legislation. However, we are concerned that the attempted rapid development and passage of Bill 171 is a mistake. Not enough time is available in the schedule for sufficient input from practising resource managers. These same forest managers are busier than ever trying to adjust to a daunting array of new government initiatives, non-government pressures for change, and unprecedented change in their own organizations and still maintain quality forest management. We must listen to those who are experienced and examine the potential impact of the legislation on those who will be required to respond to its intent.

Let's not engage in party politics and jealous turf wars among forest users, or hastily pass this potentially damaging but yet potentially empowering Bill 171. We have an opportunity to place Ontario at the undisputed top of world forest management. Let's go for it, but go for it together. We thank you.

Mr Carr: Thank you very much for your presentation. On page 3 you talk about section 18 and the different requirements of a reporting nature. As the critic for Economic Development and Trade for my party, I spend a lot of time, and you're not alone as an industry. What a lot of businesses are saying is that it isn't any one thing; it's an accumulation of all the information that governments require. Unfortunately, I think a lot of businesses feel that sometimes it's information that goes into the hole and isn't used and you spend a great deal of time preparing it.

What will it mean for you, in terms of cost, to prepare to comply with section 18? Right now they've left it so vague that you don't know. But how much, as a company, would you say the regulations cost you in terms of time to fulfil requirements?

Mr Squires: On information alone, you mean?

Mr Carr: Yes.

Mr Squires: I'd have to agree with you: At this point, we really don't know. That's part of the thing that concerns us, that there's nothing to put limits on the amount of information that will be required. It looks like just an open-ended blank cheque at the moment, so we caution you as legislators to ensure there are definite limits put on it.

We know there's information required. A lot of it is readily available already within the industry's databanks.

A lot of it the government will never require. It's information that we feel necessary because we're close to the ground, we see what is needed, and we use that information. Your concern that information not be used is a very critical one. Any information that is collected must be collected with the purpose of using it.

Mr Carr: You may have come a little bit late, but I asked the people from Lakehead University, because they had some suggestions that they put forward, basically whether the bill was better than the status quo, and they agreed it was.

When we were up in Kapuskasing, Spruce Falls Inc came before this committee and basically outlined some of the changes, but said if changes aren't made, this bill is worse than the status quo. The chap who came from Spruce Falls Inc basically said to me, "If we don't get the changes, it shouldn't pass."

What is your company's position, recognizing that you have some concerns and voice some of them? Do you think passing this bill is better than the status quo, or, if you don't get the changes, do you think this bill should be defeated?

Mr Squires: The existing Crown Timber Act, which has enabled the minister to establish forest management agreements, has definitely caused an improvement in forest management in Ontario, primarily through timber management. However, we understand it has handicapped the minister to enable him to take action relative to managing the other areas of the forest, beyond timber. We agree it's necessary to tackle that aspect of it. Indeed, the Environmental Assessment Board on timber management recommended that by the year 2000. We're seven years from that. That's part of the reason I focused on haste. I think we are being hasty.

The bill has a lot of strength in it; it's got a lot of potential. I try to emphasize that. I think the key in what Abitibi-Price is proposing here is that we think, yes, we should pass a bill, not necessarily in the current sitting of the House, but we should be working together on it, making sure that this bill, or a form of it, is exactly what Ontario needs, and we should do it together. So to answer your question as to whether this bill should pass, we think a form of this bill should eventually pass.

Mr Carr: A short question: Obviously being one of the big players and big employers, up to this point what has been your involvement with the ministry with regard to the regulations? Have you been part of the process in giving your input from your standpoint to what came out in the regs? Did you have any input whatsoever?

Mr Squires: Yes, we have. In fact, I am sitting on the operations and silviculture manual committee at the moment. It came a bit late in the game, but better late than never.

Mr Carr: Thank you, and good luck.

The Vice-Chair: Do you have a question?

Mr Chris Hodgson (Victoria-Haliburton): No, I don't, thank you.

Mr Carr: My time is up anyway.

Mr George Dadamo (Windsor-Sandwich): On page 4, you're talking about section 55 and you say that it

"leaves room for a large volume of nuisance fines based on differences of interpretation." You go on to say, "A successful lobbyist could avoid the fines, whereas a licensee without the capacity for lobbying would have to bear the cost." Could you explain that to us, expound on it a bit?

Mr Squires: It could be explained at various levels. I am sure most people realize—I am sure legislators realize—that a large company has the capacity to talk to people and get its arguments heard, whereas a small licensee may have difficulty. It just doesn't have the financial resources to get there. I don't use "lobbying" there in a sense of wrong; I use it in a sense of information exchange. The more people are aware of the problem, the more they can respond to it.

In my past, I have seen instances where there has been potential for charges being wrongly laid, but fortunately through communication they've not been laid because there's been a mistake, an honest mistake, sometimes on the side of the ministry, sometimes on the side of Abitibi. But through having people on staff that can talk to the Ministry of Natural Resources people, very seldom does something happen. In fact, I can boast that in the entire period of Abitibi-Price's FMA here at the Lakehead, we've never had a charge.

1000

Mr Wood: Thank you very much for the presentation that you brought forward here. You've made some of the same comments that some of the other people have made. You have operations in Manitoba, I understand?

Mr Squires: Yes, we do.

Mr Wood: And you have trust funds that are set up in Manitoba?

Mr Squires: That is correct.

Mr Wood: And how does that seem to work?

Mr Squires: We're quite happy with it.

Mr Wood: You're quite happy with it?

Mr Squires: Yes, we are.

Mr Wood: So you would be very similar to what we're trying to establish in Ontario?

Mr Squires: In many ways.

Mr Wood: Okay. Thank you.

Mr Ramsay: Thank you very much for your presentation. You've brought up a point, and it's the first time I've seen it in our week of hearings last week, the first time I've seen it in all of these hearings, and I'm really pleased to see it. I'd like to explore it a little more. On page 5 you're referring to the punitive fines that are there and start talking about, why not start to reward excellence and why not challenge the industry to, as you say, stretch, to see what we can do and to allow us to be risk takers and embrace new technology and innovation? I think that's sort of the language and the tenor of new legislation of the future, and I think what we're seeing here, especially in the section you allude to, is the old "command and control" idea of government that we just command people and control people rather than give people incentive and reward excellence. I think that's an excellent point.

Do you have any sense of how one could incorporate that, rewarding excellence, any aspect of that you think we could be putting in there in any concrete way, whether it's in the legislation or just part of MNR policy to sort of give that recognition?

Mr Squires: I have not really thought that through clearly, I admit. It could be something of a monetary nature, but I don't think that's what's appropriate. I think what's appropriate here is something that enables the forest manager to take the next step, to assume a higher responsibility, to get them freer of government regulation. It recognizes that the forest manager has taken on a responsibility, has met the requirements, and can now operate without—I was going to use the word harassment, but we don't receive that. But interference where you don't need it—honest interference, but it slows you down.

Mr Miclash: Malcolm, you ended off by saying let's go for it, "Let's go for it together," in terms of government and industry working together. Section 12 of the bill talks about local citizens' committees, and what I'm looking for is just some of your ideas on how these might be established and how they might function to work together with government.

Mr Squires: We are currently redrafting our timber management plan, which hopefully will get passed before this new legislation. We've got a time frame of 1995. In that timber management planning, we are appointing a local citizens' committee, and that committee is being appointed jointly by the Minister of Natural Resources and Abitibi-Price. We both put down the type of individual we're looking for—when I say type, I mean a background as to what interests they have, how they've behaved in public, do they take the responsibility seriously—and go beyond that, then, to get down to the individuals. In some cases, the company has proposed the individuals; in some cases, the Ministry of Natural Resources has.

Until we test that and have it behind us, I'm not sure I'm the appropriate person to give you good advice on that. Other companies have experience behind them.

Mr Miclash: I was just going to say that we did hear sort of an outline of a committee that was formed in Espanola, and they were very happy. Actually, we had somebody from the committee do a presentation; a lot of positive comments from industry and people throughout the area about how this committee functioned. We're actually looking for input as we go along, of course, as to some of the positive things that are happening in terms of this committee, so we'll certainly be looking forward to what comes about of what you're saying you're going to be developing. Thank you.

The Vice-Chair: Mr Brown, we do have time still.

Mr Brown: Always a pleasure, Mr Squires. As we think about this bill, one of the things of course that is a key to the bill is the trusts. There are two trusts identified in the bill. But my question moves more towards the residual value tax and how that's viewed by the ministry or by the industry itself. It seems to me that you're given the extreme—well, the doubling of the area charges that you alluded to in your brief, an increase in stumpage charges and perhaps with this bill you've a further

increase. That residual value tax which isn't dedicated to forestry at all goes off to Never Never Land in the general funds of the province of Ontario.

I'm wondering what kind of impact you believe it might have on the industry and on northern Ontario in general, because that's where the crown forests in particular are, and what rationale there could be for placing a value on the wood above what we already deem it to be.

Mr Squires: I have to confess to not really knowing the full extent of Abitibi-Price's approach to that second trust, the residual value one.

Mr Brown: That's not a trust. It's a tax.

Mr Squires: Yes. I do know any additional tax would have a negative impact on your desire to move ahead and get better markets to make more money. So there's that impact of it.

However, Abitibi has talked with Bob Carman through the negotiations and we have negotiated in good faith, acknowledging that this is on the table, and we've been willing to work with it, but it's not one that we go out and openly embrace.

Mr Brown: Do I have some more time? If I recall correctly, you also manage considerable private land.

Mr Squires: Seven hundred square miles right here at Thunder Bay.

Mr Brown: Of which I believe you've been seen by the general society as doing a good job of managing your own land.

Mr Squires: I hope we are.

Mr Brown: Yes. Well, that's my information anyway.

Comparing the costs of doing business on your own land compared to what you would be doing business on crown land, any thoughts for us? You talked about tenure. There's no more tenure than owning the land.

Mr Squires: Okay. We have been practising timber management on the private land of Abitibi here at the Lakehead for quite a number of years, since we acquired it in 1962 from the railway. In 1975, we engaged then Professor Ken Armson of the University of Toronto to do a detailed analysis of that land base, which he did on behalf of our board of directors. He recommended more intensive timber management and we started in 1976, at about the same time he started his study for the Ontario government to determine whether or not FMAs were practical.

Since 1976, we increased the level of timber management. Up to about 1983, we held it at about a level, up through to 1985, when we started to take advantage of the NODA fund, or COFRDA, I'm sorry, at that time, Canada-Ontario joint forestry agreement. But during a five-year period, about 20% of the money spent came from the COFRDA account and the other 80% was company. That terminated in 1991, so we're now on our own.

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To answer your question, we have been practising a higher level of timber management and now forest management, we feel, on that private land than we are on

our FMA, at less cost. No matter how you look at it, what ratios you pick of looking at it, we are doing a better job on our private land than we are on the FMA.

Mr Brown: At less cost.

Mr Squires: At less cost. Some people look at the land saying it's a superior land base, and we agree it is; however, there are things that we're doing there, have been able to do, free to do, move quickly to make change, whereas on crown land we have a difficulty of moving quickly. All of our innovative trials have been done on our private land for that reason.

We've developed direct seeding of jack pine to near perfection. When we use a bract seeder, direct application of seed, you can fly over those seeded areas and they look like plantations with even spacing of tree seedlings. We've eliminated planting of jack pine from our silviculture. We now seed and we get as good a plantation as if we had planted, at about one third the cost. That sort of innovation potential exists for crown land if we had the freedom to work on it, the flexibility. We think it's possible.

The Vice-Chair: Thank you. That will have to conclude your presentation. We certainly appreciate your appearance before the committee. You've sparked considerable interest in your comments and I'm sure that it will help the committee as it continues its deliberations.

LAKEHEAD UNIVERSITY

The Vice-Chair: The next presenter, Mr Stokes, I believe is not here. However, the presenter for the Lakehead University is here. The president has sent Dr Connie Nelson, dean of research and graduate studies. Dr Nelson, if you'd take a seat. If it's agreeable with you, we'll continue at this time with your presentation. We do have a written copy here and the clerk will distribute this right now.

Dr Nelson, I think you were here earlier. You have half an hour. You know what the process is, with some time for questions and answers, but it's not checkoff, you know. Welcome to the committee and please go right ahead.

Dr Connie Nelson: As the Vice-Chair has indicated, I am here on behalf of Dr Robert Rosehart, president of Lakehead University.

Lakehead is very pleased to have the opportunity to participate in this committee hearing process that reviews the Crown Forest Sustainability Act.

Minister Howard Hampton has signalled in his press release of June 1, 1994, that this enabling legislation is far-reaching in its vision, allowing us to adapt forest practices to different ecosystems and to use new technology and information as it becomes available to improve our forest practices rather than following a cookbook approach.

Embedded in this overview of the act by the minister are the implications that this act is providing a more flexible framework for looking at forest resources that goes far beyond the issue of timber. While on one hand, this act will hopefully provide a smooth transition for existing operations and agreements, and I realize there is a lot of concern as to how and if this can happen, there

are the larger questions posed as to the responsibility for generating the new knowledge and technologies that will be required to both guarantee the long-term health of forest ecosystems and sustain communities, industries and jobs that depend on the forests for their economic stability.

While the act does not specifically reference any responsibility for the generation of the new knowledge and technology needed to ensure sustainable forests, Lakehead University wishes to go on record as strongly suggesting that the forest futures fund does provide the vehicle for this essential research to be accomplished. The forest futures fund spells out explicit reference to providing guaranteed funding for renewing forests damaged by fire and other natural causes. The fund will also provide money to regenerate land that has been harvested by a forest company that goes out of business.

Furthermore, implied in these statements is the need to have the scientific knowledge on how best to renew the diversity of ecosystems that comprise our boreal forests. This requires both continuing basic and applied research. When we further consider that the act provides the policy framework for moving far beyond the perspective of forest resources as solely timber, it means that pioneering scientific groundwork into ecosystem management will be essential. Again, this larger perspective on forest resources requires new best practices based on multiple uses and users and new technologies that provide for these integrated uses and allow a variety of forest harvests, including timber, pulp and paper fibre, and other specialties, that is, medium-density fibre and oriented strand board, as examples.

As forest resource planning requires a long-term, stable commitment of a guaranteed resource supply and funds for renewal, so do research programs need stable funding in order to explore best practices, best methods and develop new technology. A continuing concern in meeting these needs is the uncertainty with respect to concurrent funding from both the federal and provincial governments. As well, we feel it necessary to point to the current lack of funding for the Lakehead University based chair of forest management and policy. Research requires both appropriate and highly skilled human resources and sophisticated, up-to-date equipment that can only be sustained with a long-term commitment of funding. Therefore, we encourage the minister to give serious consideration to using the forest futures fund for research purposes, and thereby provide a stable base for future research.

If we assume that the minister is in agreement that a significant portion of the forest futures fund should be exclusively devoted to research, we suggest that a decision-making body for utilization of these research dollars be composed of all stakeholders, that is, the university scientific community, professional foresters, industry, technology-oriented forest businesses, ministry personnel and a representative of the community advisory bodies.

We feel this approach is essential, because the new act requires that the licensees have an enhanced responsibility for forest renewal, and thus must have input into the types of research needed. Furthermore, because of the

complex array of expertise required to achieve this new paradigm of broad-based forest resources, the decisions for what research is needed go far beyond traditional approaches.

The heart of forest economic activity and development is in the north. Lakehead University has a long-term commitment to its northern mandate to assist the ongoing viability of northern economic activity. Research is an important component of the university's mission. The university and its researchers recognize the responsibility to transfer new discoveries and technological advances to society at large for its further development. For example, the university has already demonstrated its partnership success through LUSTR—the Lakehead University seedling technology research co-op—and working with both private nursery growers and industry in creating new scientific information that has improved the viability of seed stock for forest renewal.

CNFER—the Ministry of Natural Resources Centre for Northern Forest Ecosystem Research—is located on the Lakehead University campus. Through this association, university faculty members and CNFER members work cooperatively on many projects which promote multi-disciplinary, long-term research on the forests of northern Ontario. Another important example of technology transfer is the need to ensure that the manuals, particularly the management planning manual and the silviculture manual, reflect sound research and scientific principles.

It is evident that the tie between scientific research and professional practice is essential. This link from new knowledge to forestry education has been continually nourished at Lakehead University from the inception of the original Lakehead Technical Institute, where forest technology was one of the programs on which the institute was founded. Over the years, undergraduate diploma and degree programs and master's programs have been developed to meet emerging needs. The university has the only undergraduate professional forestry program in the province and offers a diploma in integrated forest resources management.

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In addition to its undergraduate programs and a master of science in forestry program, the faculty of forestry provides the only graduate professional degree—MF—in Ontario. This program ensures in these times of rapid change in forest management that both professional foresters and others with forest resource responsibilities can obtain the advance training required to deal with complex ecosystem environments. The development of academic programs continues with plans for a joint PhD in forestry with the University of Toronto.

Complementing these various forestry programs is the expertise found in the disciplines of biology, geography and outdoor recreation required to meet broad-based forest values, including wildlife, environmental issues, recreation and ecotourism. In addition, the university is active in the continuing education of professionals working in forestry through the Ontario advanced forestry program which is based at Lakehead University and offered in conjunction with the University of Toronto.

In summary, this new act is going to require that

Lakehead University work very closely with the ministry and industry in ensuring that the appropriate training and research is available for ready transfer to meet the conditions of sustainable forest resources, as set out in the forest licence arrangements. The university looks forward to building on the already established partnerships with the Ministry of Natural Resources and regional forest companies in supporting research links that are of mutual benefit to all parties.

Minister, the forest futures fund can provide the essential support needed to sustain the types of research activities necessary to ensure your act does indeed achieve its purposes.

Mr Wood: Thank you very much for coming forward with your excellent presentation. We've heard various presenters over the last week and today, and some of the comments are that there hasn't been enough time out there to develop the legislation, the regulations, the manuals. I just want to get some comment or feedback from you as to how much involvement you have had with the industry, with MNR. Can there be proper amendments brought forward, the revisions to the manuals, in a timely fashion, the legislation that we're looking at, with amendments, third reading, some time before Christmas? What would be your view on that?

Dr Nelson: We have a long-term relationship of working very closely with both the ministry and the forest industry. The thing that's going to be important is that there is some funding provided to ensure that this happens. We know that some of the manuals are out of print and they have not been reprinted. The forest, if we look at it, as the new act defines it, it's going to demand a brand new way of looking at things.

I think the critical thing is, are we going to sit back and just wait for the act to be passed, and then just frantically try to deal with these manuals or are we going to do a very sort of proactive position and begin right now to say, yes, these manuals have got to be upgraded to meet the needs of this new ecosystem. What I was trying to demonstrate was, I think we've got the partnership track record to do this, but there has to be the commitment. There has to be the go ahead to say, yes, these manuals do need to be upgraded.

The way the act is written, it's very dependent on those manuals, and right now some of them are not even in print, you can't even get a copy of them. So this is an issue. It's interesting the way the act has been written, and I think you hit on a very critical issue and the university is signalling that it is very willing to make a commitment to help with this, but we're going to have to have that commitment to do it.

Mr Wood: Along the same lines, workshops are going to be commencing the end of September into October in updating the manuals. I just want to get a sense from you that if that follows through and we get all the partners around the same table and working on different portions of it and proofreading it and the various amendments, should Bill 171, in your opinion, proceed into legislation, into law?

Dr Nelson: I think the bill is moving us into the direction that we need to go, but it's not going to be

without a lot of pain, because we're not used to thinking of forests in this particular way. These workshops will help, but if we're really going to model ecosystem paradigm or a way of thinking, that means we must practise that in putting together the manual, and the manuals can only go so far. We're really treading on pioneering ground, and I think there will have to be a way in those manuals to continually reward people for gaining the knowledge that we'll need to look at this multi-use forest.

Yes, the manuals need updating, but if we sit back in December and say, "Well, the manuals have been updated," I think we're missing the far-reaching vision of this act because it goes way beyond timber.

I liked what Malcolm Squires was saying about the approach to excellence, because I think there has to be something built into the manuals that continues this best practice approach to a perspective on forest resources that we've never walked before in this province.

Mr Wood: I take it this is one of the reasons why there is a transition period built in, that as we convert from the timber act of 1952, which is 40 years ago, to a two-year transition period and also a five-year transition period for licensing, that there's not a great impact overnight as the law is passed.

Dr Nelson: Right.

Mr Wood: It'll have an impact overnight as a transition period. You can comment on that if you want.

Dr Nelson: We have the existing FMA agreements, and we have to be very careful that in this transition we don't lose ground, that we keep very viable forest companies. But at the same time, I guess from my perspective what I'm trying to argue is, we'd better get visionary right now and get that research base that we need to ensure that once we pass through that transition, once we've got into looking at forest resources in this multi-use way, then Ontario is really ready to do it. Otherwise, we're going to fall flat.

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Mr Wood: Some of the exercises that have been going on—the Bob Carman exercise, as it's known now—have been taking place for a couple of years, I guess, and trying to consult and get everybody around the bargaining table and get a dialogue going there in the direction that we're heading with Bill 171. I'm sure you've been involved in some of the discussions or heard what is going on. How is your feeling of this dialogue? Has there been enough to bring people together?

Dr Nelson: I think the dialogue is there to move the act forward, but I'm trying to say something with more depth to it. There's one thing to reach the kind of agreement we need to go forward and there's another thing to make sure that we've got the right kind of information to make the accurate decisions.

I think we've done a very good job of making sure the right stakeholders are at the table but those stakeholders have got to be fed with proper information. I'm saying we've got to do better there. The instability of funding, I don't think has allowed us to ensure that all the information we need is at the table.

Mr Gary Wilson (Kingston and The Islands): I just wanted to check on this level of funding. You said you needed a significant portion. Can you put a figure on that significant portion?

Dr Nelson: I wanted to do that but then I thought, we don't really know what the forest futures fund is going to hold.

Mr Gary Wilson: All right. What about other jurisdictions, either other provinces or even countries, and the ties of the users of forests and research bodies like universities? Are you aware of any arrangements that might be helpful here?

Dr Nelson: We put about \$2 million into research in a broad base, if you think of tourism to biology to forestry right now, and I think we're just scratching the surface. If there was \$10 million, we would cover everything. If there was \$5 million a year, we'd begin to do an ample job, particularly if we could take that \$5 million of Ontario provincial money and then match it to federal dollars and private sector dollars.

But we're just scratching the surface right now and it's frustrating when you see that this is still—in spite of software development, technology development, forestry is still the biggest exporter in Canada. It's our major industry, and yet, as the dean of research, I can tell you we don't put enough money into the area that is still our bread and butter. That's why I'm here, to try to say that, look, we've just got to seriously tackle this. When I read through the act, and speaking with the president, I thought that this forest futures fund is exactly the kind of fund, and the minister seems to have the ability through this act to make those kind of decisions, if the will is there.

Mr Brown: Thank you very much for coming, Dr Nelson. Always a pleasure to see a representative of Lakehead University, and I know my colleagues and I enjoyed your guided tour that we had last year.

I'm thinking about what you're saying. We know that Lakehead has a reputation of excellence in terms of its forestry school, not just in Ontario, but across Canada and, indeed, the world. I'm trying to think in my own mind about the funding you may have received over the past five years because clearly the revenues from forestry to the province of Ontario have increased dramatically. The provincial Treasurer has seen the benefit of a doubling of the area charges, increased stumpage. A tremendous amount of money is now flowing into general revenues under the existing situation that wasn't there two years ago.

At the same time, we've seen a constant withdrawal of the Ministry of Natural Resources from the field. I think the figure is 30 million trees are now planted less than what was happening in 1990. There's a significant withdrawal to people—we hear all the time from the people with cutting licences that they don't receive assistance to the degree they used to. So did the money go to you?

Dr Nelson: No. Our biggest source of money is still at the federal level through Forestry Canada. We've actually helped the ministry by making the ministry

personnel—like it's in for adjunct professors at Lakehead University. It makes them then eligible for federal funding. So we've got a long way that we could go in ensuring that the provincial government is putting funding into this.

I sat on the URIF, University Research Incentive Fund, for six years and it was only near the end of that tenure on that term that we were able to convince that body that forestry research should be funded that way because it wasn't being funded any other way. URIF is one potential way, but I think it's in competition then with software technology and everything else. I think what we really need is a very dedicated fund, and I think the forestry futures fund could do that. I would like to say that there has been a lot of funding but there really hasn't, and not at the provincial level.

Mr Brown: When we talk about the trust funds, there are essentially two trust funds. You're talking about the forestry futures one; the other relates to forest activities, regeneration and that kind of thing. There's also a component that just goes directly to the Treasurer of Ontario, or the Finance minister. There's a dollar that just goes to them automatically, which I guess we assume is to pay for the administrative costs on the ministry's part.

You may have heard me speak to Mr Squires about the residual value tax that the ministry is also placing on forest products, and that again goes directly to the consolidated revenue fund, perhaps never to be seen again in northern Ontario where it was generated. I'm wondering if some mechanism for that money could be placed into supporting the research and to encourage an industry that is certainly, in Ontario, still one of the strongest exporting industries—

Dr Nelson: Absolutely.

Mr Brown: —and to northern Ontario, especially the northwest, it is the industry.

Dr Nelson: If we really wanted to tag those kind of reserve funds and stumpage fees more closely to the research, probably in an ideal world we'd take the stumpage fee and slice off a portion of that stumpage fee and put it into forestry research, and take the reserve fund at the industry level and put it into technology, transfer kind of research. I think we could divide it that way. Definitely there's a lot of opportunity out there for matching funds, but we're not being smart about it. The way we've been smart is to hook up with people like the private seedling nursery growers and go after URIF funds and federal dollars under NSERC, our industry partnership. We've been able to triple the amount of funding into the university by going after these matching funds, but it requires partnerships.

You're on to something I think we need to explore. When the money comes in from stumpage fees and from the reserve fund, we need to be able to tag a certain proportion of that directly on to research, and I think that needs to be research in the broadest sense. If we're going to look at forest resources, we need to look at everything from natural resource management, ie ecotourism, down to our more traditional approaches in timber management. We need all of it.

The Vice-Chair: Mr Miclash, a quick question, please.

Mr Miclash: Maybe a brief comment more than a question: Dr Nelson, you've given us a presentation that was not heard yet in terms of research and, as my colleagues have indicated already, this is certainly an important aspect to forestry, especially here throughout the northwest. I would just like to say that I will be looking forward to some amendments when we do get down to the futures fund in terms of this. Hopefully the government will be listening at that particular time and we will see some of the dollars flow back into the area for what you've indicated. You've given us a very important case in terms of research, and I just wanted to thank you for this presentation.

Mr Hodgson: Thank you, Dr Nelson, for coming. We opened the hearings in Sault Ste Marie last Monday and I mentioned in my opening comments this need for a scientific base to decide what's going to be sustainable. This act speaks to sustainability in two different ways: one is that it's going to sustain the ecosystem in the forest as a whole; it's also going to sustain the communities, and that's got economic benefits to jobs. But there's no base to decide how many trees you can cut that will be sustainable, or what you can use this ecosystem for and have the moose population remain sustainable. There has to be a scientific base of data.

I thought about the futures fund being used for that, but the problem I have with using that fund is that it's estimated to be \$6 million this year. That's a little bit less than half of the area charge. I think that's basically where the figure comes from, although we'll have to ask the ministry exactly. That's generated off of stumpage fees.

We're being sustainable in the forest industry and it's a large part of our economy and it's crucial to northern Ontario. I come from an area where we call ourselves northern Ontario but it's not really, it's Haliburton, three hours north of Toronto. We have a mixed economy of tourism and logging. You add another cost to the price of producing lumber in Ontario, no matter how you look at it, and if we're trying to sustain the whole ecosystem that generates jobs in tourism—and then also, the lumber industry has corporate tax and personal tax, a variety of sales taxes that are generated by the multiplier effect.

What we're asking for is a base of knowledge, scientific data, so we can prove that we're being sustainable to the world where we sell our product. That cost should be borne by all the taxpayers in Ontario. That's like education itself; we bear it, but that's a part of the infrastructure of a growing economy, so future generations can have the skills to compete in the world.

To take that out of the futures fund—I realize where you're coming from, you want to have some source of funds that you can plan scientific projects for in the future. But surely there's got to be a better way than taking it off just one component of the forest ecosystem.

Dr Nelson: I can't think of a better way to start. The philosophy that you're expounding is one that society is going to really have to grapple with, but I think it's going to take us another 10 years to do it. In the meantime, I think you have come up with a very visionary act, but

unless you've got the scientific base, it's going to flounder. The philosophy you're expounding is the same as we're going to face with water. It's not going to just be trees in the forest, but it's going to be water. We're all going to have to pay for it, but I don't think we have the time to wait. We've got this bill, we've got this futures fund and I think in the next five years we better make that commitment and say, "We can't wait."

If we can, down the road, do this larger look I think it would be very powerful, because if we can get everybody to have to commit to forest resources, we'll have a very powerful base, but being realistic about it, we can't wait for that, we just can't. We can't afford—

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Mr Hodgson: I'm not suggesting we wait for it. We're quibbling about dollars here, the \$6 million, and you're talking about a substantial portion of that being used—

Dr Nelson: Yes, I'd say \$5 million.

Mr Hodgson: That's rather substantial. But on the FMAs, what's your reading on this? You've been bold enough to process the forestry research. The way I saw this bill evolving was that the government's role was going to be to set standards, the industry or the people who use the forests were going to actually do the work, the ministry would enforce it through the penalties and have independent audits that would report to the Legislature to tell the world that: "Yes, this is being met. These standards are being met."

Would that not save the Minister of Natural Resources a lot of money? That money could be used for the crown units on drawing up inventories so that—affordable for smaller producers to actually have work plans based on scientific data. You're not seeing money being generated there on the savings to the ministry that could be put towards partnerships with your university or other universities?

Dr Nelson: Again, maybe down the road, but you're not going to see that kind of savings come—and I doubt if you're going to see that kind of savings in 10 years. Don't forget, you're not asking people to do things the same, you're asking people to do things differently. I think in that change you're going to have to be doing parallel activities. You're going to have to continue to ensure that the existing economic activities in the north are sustained. We can't afford not to have them sustained.

At the same time, we're asking people to move past those and look at new uses of the forest, but we can't destroy the one while we go after the other. I think any saving that companies are going to have in that way better go into some of these new uses of the forest. In the meantime, we've still got to have the scientific base. You've got your timber, you've got your potential other new uses parallel.

There should be an encouragement in the act for these new licensees to explore, experiment, to give them the flexibility. We have to be careful this act doesn't unduly punish people, but rewards them for trying new innovative things. In the meantime, you've still got to have the scientific base for it.

I think we need all three going at once. Being realistic, my experience with any new venture is it ends up costing you more in the short run. In the long run I think we might have a—I think we will, but in the short run I think we'll fool ourselves if we think we're going to save money. I don't think so.

That's why, again, I think I've got to go back to this futures fund. I think it really at the moment is the only option. Maybe we put a five-year limit on it. Maybe we say for the first five years that this fund be almost exclusively devoted to research and at the end of five years we re-evaluate it. I'm not opposed to what you're saying in the long run, that the larger society should have a commitment to those forest resources, but you're not going to get it tomorrow.

Mr Hodgson: What was it Keynes said about the long run? We'll all be dead, but in the short run we've got to make sure that this works.

Dr Nelson: Yes.

The Vice-Chair: Thank you very much, Dr Nelson, for appearing before the committee. We certainly appreciate the obvious interest that the university is showing in this bill and the special role that Lakehead is playing with regard to anything relating to our great natural resource of the forest.

We actually have a bit of time. Mr Stokes, who was scheduled earlier, has called. He got the dates mixed up. He'll be appearing on Thursday. River Lake Timber Ltd, scheduled for 11:30, is not here yet, but I understand that we do have a gentleman here who would like to make a presentation even though he had not contacted us beforehand. Seeing that we have a bit of extra time, I would suggest, with the agreement of the committee, that we listen to him. It's Herman van Duyn, the president of Hill's Greenhouses. It's a tree seedling growing company. He's also the vice-president of the Ontario Tree Seedling Growers Association and president of the Thunder Bay Tree Seedling Growers Association. Is it agreeable with the committee that we hear Mr van Duyn? Agreed?

HILL'S GREENHOUSES LTD

The Vice-Chair: We can actually give you half an hour, Mr van Duyn, since the next presenter's only scheduled for 11:30, and we do have to, of course, wait at least until 11:30. You will have half an hour, and if you leave some time for questions and answers, we'd appreciate that.

Mr Herman van Duyn: I'm not really sure if I need a half-hour. I also appreciate that you fit me in the schedule unexpectedly. I didn't read any material that I had to book in advance but I understand that was the case.

As you see on my little note, I represent several hats and in that purpose I'd like to make a few comments. I'm also in the chamber of commerce from the city of Thunder Bay, in the environmental committee. Mostly I deal with forestry issues. I've been sitting in on the Abitibi-Price committee about the model forest proposal which was initiated by the federal government.

I've been a month ago involved in the drafting of the manuals from this particular bill, which I'd like to make

my first comment on, especially the silviculture manual which, as you're aware, they'll be still working on quite a bit. I thought the manual itself is very vague in a sense, but I'd like to see minimum and maximum standards, for instance, that aerial seeding—there is not a specific amount of trees being pointed out. You could end up with 30,000 or 60,000 stems per hectare or so which isn't really spelled out if the manager has to thin them out or do something. We like to see a minimum standard, a maximum standard for reforestation, also with target.

1050

Personally, I don't feel that sustainability is good enough. I'd like to see Ontario heading to a net increase of forest, in other words. That's my personal opinion from Hill's; I'm the president and I'd like to see a bigger, all-out effort to surpass or have a net increase of forests as a target. Like Mr Squires says from Abitibi, if a company goes all out and does a little bit more than is required, there should be some kind of a reward for the forest company; rather, that is, more timber licences or quite a few other things, I cannot really say. My personal feeling is that sustainability is not even good enough, we have to aim for a net increase in our forests.

The way I see we can reach that is to get more involvement of private land owners. I haven't seen too much about it in Toronto with the manuals. I'd like to see more private land owners getting involved somehow. There's quite a few thousands of hectares of abandoned farm land, for instance, that could be planted, could be making a timber value, in a portion of Ontario. Don't forget, when we work out now in terms of silviculture, we don't have any usable resources there for the next 40 to 50 years or, maybe for timber value, even longer.

What we do now is—I almost feel it is urgent, as a seedling growing person. I almost produce 100 million tree seedlings for northwest Ontario. I'm the first in Ontario to have that view. I think we'll achieve that goal next year to have 100 million trees produced in our facility. I'm pretty proud about it. The last years have been very choppy. I've seen the steady erosion of funding for silviculture, especially at the planting level. Don't get me wrong, I'm not saying we have to plant everything. There's all the other methods that should be in place and should go hand in hand with it, but lots of times I have seen one portion of the silviculture program get eliminated or shunted aside to do something else, and then a couple of years later you have a big setback and all of a sudden you have to catch up again.

The trust fund finally gives us some kind of a security of funding, although I understand that the crown commitment to the trust fund is not as high as it should be and the minister of the day himself acknowledged last year already that the crown lands are very severely underfunded. There's not much activity going on, just cutting the trees, and for the rest we still have what's supposed to be an interim policy about natural reforestation still in place. We, of course, feel that's a terrible policy; don't forget I am a grower.

The trust fund will give us some security, but there is still a penalty-driven incentive—the same struggle as the forest companies, there's a tremendous amount of bene-

fits. For instance, when we tender on seedlings, the lowest price goes. Basically, for instance—the university, where we put a certain amount of research dollars in it, it doesn't give us much room to bid on a contract because if you go too high, you lose out to a competitor who doesn't do any research, who doesn't give a hoot and the lowest price goes.

We emphasized to the minister quite a few times already that also quality should be recognized. There should be some kind of an incentive written in the tender process, and that is basically not only for seedlings. I hear a lot of comments about scarifying tenders and still more.

For instance, I grew some tree seedlings this year for Minnesota state forests. If I produce a good seedling, automatically it's been rolled over to an extension of next year, up to a maximum of two years. In other words, I have the security of a next contract if I do a good job, but after two years it's getting eliminated. I think that is fair because it will give other growers an opportunity to bid on it again and say, "Well, if we better ourselves, we probably can match that type of a seedling."

This is a small contract with Minnesota. We are the first growers for the United States. I'm quite happy about it, but I still like to grow for Ontario. A big portion of our seedlings are being grown for Abitibi-Price.

We usually follow our seedlings in the forest. In the fall, we go out and visit the plantations, sit down with forest companies, dig those things up and see how the behaving is, try to work some things out that don't look correct. All that stuff has to be within the price frame of a tendered or a negotiated price with the FMAs.

As I say, the trust fund will give us a little bit more security. You have to understand that we grow seedlings for the crown by tender process. The forest companies, however, are free to negotiate with the growers and set the price between them. With that portion of money, they have to do the silviculture program.

As I say, sustainability, I felt, is not even good enough. I'd like to see the minister coming out and slam his fist on the table and say, "Now we're going to aim for a net increase of forests." I feel there's more pressure on our resources; it's going to get worse.

On Saturday night they showed on TV that average house pricing, the lumber alone, is costing an average of \$15,000 more. If you plant seedlings now or we go for the sustainability part here, 50, 60, or 80 years from now, what's a house going to be? There's a big concern with the present government about availability of housing. I feel this whole silviculture process affects that. What are we going to do? For a politician it's not that easy, but we have to look decades ahead and it is pretty hard to do that. Lots of times I felt things are getting chopped, especially the last couple of years, for the sake of saving money. Wherever that money went, I think we're shooting ourselves in the foot if we do that.

Ontario, I feel, doesn't have to behave as a Third World country in silviculture. The people who are; they're all itching to go ahead. I very seldom see it in forums like this. I'd rather be at my nursery in my boots

and grow trees like heck and see you go out in the fields. There are lots of people who are restricted. We have frustrations, as you can see; lots of good things too, but the last years, we have been very frustrated with the whole process.

I agree with Abitibi that we have to have a very strong act. I was wondering about this act: How much was politically driven and how much is actually in there that is good for the forest? What is practical? I have seen already lots of impractical things. Lots in the act is penalty-driven for the forest companies. I'd like to see for growers some kind of reward when you do an excellent job.

Too many "mays" for the minister, as Abitibi mentioned. I had the same problem already for months. I like to see lots more "should be's" and "shall be's" than the "mays" of the minister. The minister has exceptional powers in this act—way too many. I think there should be a little bit more responsibility for the crown and the minister to do his things. It seems to me that all the onus is going to the current FMA holders and the crown is getting totally neglected in it.

1100

I'm going to apply for a local citizens' committee. I'd like to be in there. My concern about this is, are those people knowledgeable enough? A forestry company has to defend itself against people who are not all that knowledgeable and they have to explain every little step they take: how time consuming it is; how costly it is for a forestry company.

On the other hand, we might have to have people keeping a check on a forestry company, but my experience was that it can be worked out. It takes lots of work to do it, but it can work out. Local citizens' committees: I have a book from the French Revolution and the same local citizens' committee—I saw the same name—and in the end those people are busy chopping off heads, you know. What is going to happen with the local citizens' committees? Are they going to be constructive? Are we going to have an increase in forestry, or if that's going to be the case, I'd like to see that more defined in the manuals maybe.

The research component: There is not much room for research. We are price-driven. Because of the cutbacks there is a tremendous excess of greenhouse space. We're also facing interprovincial trade. It means that some of the tenders are going out to Quebec, for instance. We are not allowed to bid in Quebec.

I was successful two years ago winning a tender in Alberta. When I wanted a tender this year, they told me straight out that they have enough growers. "We're not interested in going beyond the provincial border." At the end, that's it. You just simply don't get the tender and you've kind of lost. Maybe with a lawyer and a proper court I would have gotten a tender, but it's pretty hard to win something like that.

When Ontario was advertising the few trees we grow here, it's down closer to 100 million than 130 million or 120 million. For next year, it's pretty grim, what's going to be planted. The Environmental Assessment Board

pointed out already to the minister the disappearance almost of the black spruce and slowly we are eating up our most valuable species, and they had a big concern about it. I feel that is one of the most important species we should concentrate on in this part here around Thunder Bay.

We heard, for instance, that jack pine can be seeded with machines for a third of the cost of planting. We agree. We say, let's move forward and implement those things and not just put one thing aside for the other and then five or 10 years later we're facing that we have to catch up with a certain component of the silvicultural methods we are using.

I believe that those portions should go hand in hand, and it will indeed cost money. The trust fund is there. But if the money will be there, it is still not enough. The crown itself is way behind in funding for silviculture and I'd like to see it up.

I have no written presentation, but I felt I had to say something and make you aware of my concerns. I just leave myself open for questions.

The Vice-Chair: Thank you very much, Mr van Duyn. We appreciate you sharing your views with us because this is what the hearings are all about, and if we do have an opportunity to accommodate people such as yourself, we gladly do that.

Mr Miclash: I thank you as well for your presentation, Herman. I like what you had to say in terms of the local citizens' committees. I note you've been heavily involved in a good number of committees, organizations, associations, as well as the chamber. I was just looking for input from you in terms of what you would see the makeup of these local citizens' committees as being and what kind of a mandate they may be looking at, should the minister go ahead and, as it says in the act, section 12, he "may establish" these local committees. I'm just looking for a little bit more input as to what you might see.

Mr van Duyn: Okay, I'm not even myself really clear about what the minister wants from the local citizens' committee and what mandate. I haven't seen any of late. I'm kind of concerned that a local citizens' committee, for instance, in a smaller place doesn't have the knowledgeable people to draw from.

I'd just like to point out the model forest proposal we did with Abitibi was not too bad because we were drawing from Thunder Bay and area; in other words, we had university professors in it. Everybody was in that. What kind of base can a community such as Raith or Geraldton—I don't want to knock those communities down at all, but are those people available?

My concern with the local citizens' committee is there's not enough knowledge in there. You have to have at least a professional forester in there. But then there's the question, if that board, for instance, is 10 people, is that professional forester having to defend all the time, explain his interpretation of silviculture or other parts?

He might be too busy giving explanations of what it is or what has to be done than actually looking at the steps they should be doing, in other words, the practical stuff.

The last thing you want to see is some kind of a court where one person has to defend something about something else.

As I say, I hope to get into a local citizens' committee. I can represent the chamber of commerce in it. Lots of times you're dealing with highly professional people. I know in the past that even the public is kind of leery about the MNR. I was the same thing 15 years ago, before we started growing trees, but I've discovered that in the MNR itself there's a tremendous amount of knowledgeable people. On the forestry issues they went through all these steps. They have lots of dedication behind them.

The problem is the MNR is usually perceived as being not really impartial. They say, "Oh, you guys are on the side of the industry," which is not really true. There's lots of dedicated people in the MNR, and I think they got a tremendous amount of flak a while back and there still is that kind of suspicion: Is the MNR the right tool to do it?

I would say yes, because they have the people there. There are just tons of them. I would almost say there is too many. I can't afford it with my private company. But, anyway, the knowledge is there. The MNR has a tremendous knowledgeable bank. I'd like to see some kind of research tool and some kind of a library that is open to the public, because you will need it with the local citizens' committee.

The local citizens' committee will have answers and they're going to have to plow through manuals. I got one with 800 pages five days before we came to Toronto. They said, "Look through this." They worked on it for two years and then say, "Give us your comments." Is that fair? I really don't think so.

This stuff takes time and it's going to be—I want to cut my answer short. I have still a struggle with it. I don't know what the mandate is going to be, what kind of powers the local citizens' committees are going to have, if it is an advisory board or not. I'm in the blank.

Mr Miclash: Sure, and I appreciate that. I think we are asking the same questions but we're also asking for input from people such as yourself who have, as you indicated, actually previously sat on these committees. You have that knowledge of what the committee will need beforehand and exactly what you can get into.

Mr van Duyn: A citizens' committee should be advisory. I don't think they can have the powers. Of course, they should be able to ask a forest company about the plans and why they're doing it. There's no doubt about it. I don't know how they've done that, if they need any more powers or not.

1110

Mr Miclash: So you're saying that we have to serve in an advisory capacity type thing.

Mr van Duyn: Sure, and the better the local citizens' committee, if there's more people in there from different backgrounds, like tourism, the native people being there. You have to have those points all together to come to a conclusion.

Mr Hodgson: I really enjoyed your presentation.

Mr van Duyn: It was a little bit off the cuff.

Mr Hodgson: I also got the impression that you'd rather be working. We don't get a chance very often to see people actually working in the field. You've had a lot of years of planting trees.

You mentioned that the trust funds give security and predictability, these trust funds that were brought in, in Bill 160 earlier this spring. They outline how they're to be used in general terms. That's an improvement I think that everybody's in agreement on, that it gives some security and some long-term planning predictability to funding.

I just want you to follow up on a comment you made about the private lands. You'd like to see some predictability in the regeneration of private land forests. You're aware that the forest management tax rebate was cut so that the incentive to replant was taken away a few years ago. Do you have any comments on that?

Mr van Duyn: That's part of the frustration I have because it has been an ongoing thing for the last years, a little thing here, a little cut there, and where does it leave us? The land is there, we can do it. People ask me why, if I go to my old country, they say: "What is happening there? You're planting 100 million trees on the 20 million."

You hear that before we cut the same area as Sweden. Sweden puts in 600 million trees. They have a net increase of 10% in the forest. Scandinavia, eventually, when they start cutting plantations, they will advertise it and before you know it they say: "Look at Canada, they're still cutting boreal forest and we have plantation wood. How about it?" They might get \$50 a tonne more for pulp. There might be another billion people in Europe, saying, "We like toilet paper from Sweden rather than from Canada," things like that. They will advertise. I feel we're getting behind and it is not necessary.

Mr Hodgson: How do they do that? In Ontario right now we take about 25 million cubic metres of wood from the forests, about five million of that comes from private lands. We're going to say to the world that all the products coming off of Ontario forests are from sustainable forests, yet there's no incentive to replenish 20% of the forest.

Mr van Duyn: You are exactly right. The private lands are totally neglected. Sweden is 80% or 85% privately owned, and you see the results.

Mr Hodgson: When you say a net increase in the wood supply, do they have a base they're starting from? They'd know what sustainable is in terms of cubic metres of wood production?

Mr van Duyn: Yes, pretty good. They have a good indication of what they have. I don't even know if Ontario has that.

Mr Hodgson: It's not mentioned in this act or in the manuals that I can find that there's any base to define sustainability in terms of timber extraction.

Mr van Duyn: In the years we're discussing about forestry and we have talked about what is in Ontario, I don't think we ever have got very clear answers. Various committees have looked into it to see what's available, and that is pretty critical too, because what can we afford

to cut, what can we do? We have to look at it. If you don't even know what we have, what kind of steps can we do to improve it?

Mr Hodgson: How do we know where we're going if we don't know that?

Mr van Duyn: How do we know where we're going? This bill is perceived by industry, and I think we're in a good direction. It doesn't necessarily mean that it has already two readings passed.

Mr Hodgson: I think everybody's agreeing with the broad principles of the bill. We're just trying to hear your input.

Mr van Duyn: I'd like to see more specifics and I'd like to see more details, more practical stuff and more incentives for industry to go all out and do a heck of a deal rather than just do a job. I just heard before, and this is scary, that the company on private lands does a lot more than on crown lands. In other words, we should be up to standards or there should be a reward to those companies.

Mr Hodgson: I brought this up in the House a number of times and, in fairness, the minister has assured us that in early fall he'll have a template out to address the private land situation, and again in Sault Ste Marie, it was reiterated by Mr Len Wood, the parliamentary assistant, that that would take place.

Mr van Duyn: For private land funding, for instance, I could see three- or four-way participation. It doesn't have to cost that much. I'd like to see federal government money going in that, which is of course in the COFRDA agreement that is totally down the drain. Federal money, I don't know where it is. We have not a clue. We've never seen it that lower level anyway. But I'd like to see some federal money go in there.

The private land owner either has the land available, maybe there could be money from the mills, make a direct deal with private land owner, plus the Ontario government, so we have three- or four-way funding in there. It doesn't have to cost that much, I feel myself, but what we have to point out to the private land owner are the benefits he gets out of it.

We talk about 40, 60 or 80 years from now. It's very tough to invest in something that pays off a lot later. We should point out to the private land owner how many cubic metres he can get off a hectare, how much revenue is probably expected. I'd expect that the pressure on the resources, and we can see our prices going up already in lumber, is going to keep on continuous. Once in a while it might be stagnated, but the resources involved are going to be scarce around this world.

We know that in 30, 40 years from now, there'll be another three or billion people on this earth. They're going to look at Canada. Can we still be able to set aside certain portions just for recreation or tourism? There's going to be a tremendous pressure. There's lots of value there, I think. We can do it; the expertise is there.

Mr Hodgson: I was just going to make a quick, little comment. You mentioned private lands: old, abandoned farms going back to woodlots. The incentive is, as you are aware, they get a tax rebate on an old, abandoned

farm as agricultural land. They wouldn't get it if they planted trees. If you cut the trees, throw some corn down, you get the tax rebate, and if you don't—that's all. In the interests of time, I'll let you proceed.

Mr Wood: Thank you for coming forward at the last minute and talking off the cuff and giving us some ideas and suggestions. I agree with the comment that you made to the third party. I myself don't know where the federal government is putting money into forestry, other than some of their parks, I guess, federal parks. But I agree that there should be more money coming into Ontario from the federal government and we'll have to talk to our cohorts on that.

I want to get into a little bit on your involvement with the silviculture manuals and your involvement with the chamber of commerce and the seedling growers. Just a comment, or you can comment after: When we were—myself and Howard Hampton, and prior to that Bud Wildman—touring around, some of the foresters at companies were saying: "Give us a free hand to look at a stand of wood and we'll regenerate it after harvesting. We might do it through aerial spraying, we might do it through natural regeneration, we might do it through careful logging, we might do it through planting seedlings. But find some kind of a mechanism through trust funds being set up, then just leave us alone. If we do the silviculture and the stand comes back afterwards, we'll get rewarded for it. If not, we're not going to get any money out of the trust fund for that thing."

Being a seedling grower and being involved in the writing of the manuals there, I just want to pick your brains a little bit on how you feel on four different kinds of silviculture manuals.

Mr van Duyn: That's a good point. I talked about it too, because it is a scary part. I don't think we can do that. There has to be a minimum standard description for the forest companies. If you give a free hand, what I know just the last couple of years is the makeup of forestry is changing, environmentally alone. Big spruce stands are being cut and they're coming back in poplar and birch because the funding is simply not there to plant them back, so we're altering the state of the forest. It's not showing up as much yet, but it's certainly going on.

I think if you give a free hand, it's like seedling growers. I mean, there are some guys who barely produce the minimum seedlings within specs, but there are also guys who go for the target or better than that if they can, and I don't think we can do that, give a total free hand. There have to be minimum standards at least, and they have to be written in the act, that the forest company is at least abiding by that.

Otherwise, I can see—and this happens with private land owners, I know, a lot. Guys farm in the summer and cut in the winter. All they do is cut, there is nothing else going on, so I'd like even to see some of the—I don't know if it's possible to write in some guidelines for private land owners who are cutting quite a few acres here, 100 acres here, 200 acres there, but it all adds up if we do that 1,000 times over.

I feel unless a company has really proven a good track record—we could then relax maybe a little bit more, but

I would have a very close scrutiny of the company, at least have minimum standards. If a company excels, I would say: "Fine, you're doing really good. Some of the things we give you there, we can leave you alone." Because for the forest companies as a whole, the wood supply is very critical, and so long as the supply is there the company will be here too.

One point I forgot to mention, and I put down earlier in an editorial I was writing for the seedling growers, is that if we drive the companies out of Ontario, globally I can see there will be a lot more environmental damage. They will go to countries where there are less standards than Ontario. I feel we can work with the companies. The companies have an understanding of what is going on here. We don't necessarily have to go around the world to say, "We have the strictest environmental laws here and don't have any companies." It just simply don't make sense. I feel we can work together and do the things we have to do.

But going back to your question, that's a scary thought, to say just—I know that the managers like it and maybe some proper guidelines can be written in—but also I think we can't see anywhere in the manual that the forest manager has to have a certain knowledge or education. It should be. I was also involved with the Scaling Manual, that I'd have to be a licensed person. I'd like to see the Forest Operations and Silviculture Manual assert that certain things like that should be written in too; in other words, it should be at least a professional forester.

1120

Mr Gilles Bisson (Cochrane South): I just wonder if I could take the opportunity to comment on a couple of things with you. You touched on citizens' committees and how the structure of citizens' committees would be put together. The reason the word "may" is utilized in the legislation is because the minister has two options: the minister can appoint a citizens' committee or he can appoint a forest management committee, which are two different functions.

In regard to the citizens' committee and how the structure is on all of those committees, it's spelled out in the class EA. There's a guideline by which the regulations would be developed, and obviously the people on those committees would be those who are reflected within the forest of use. In other words, whatever cottage association would be out there, whatever forest companies would be out there, whatever jobbers would be out there etc would be the people on that citizens' committee. That is being worked on.

The other thing, just as a point of clarification, is you talked about the changing forest, and you're right. One of the things that was found not through the EA but through the forest audit was that a number of species, namely, black spruce, were changing and going into poplar. Maybe that lends to the need for better tendering of our stock.

The question I have for you is, you talked about the need to develop a system where you reward growers. In the discussions I've had with growers in my area, they talk about: "Well, you know, that's how the market works. If you do a good job, you'll get more contracts. If

you don't do a good job, you won't get contracts." Do you feel that that's not enough, that there should be something spelled out in the legislation?

Mr van Duyn: Yes. I know it has to be spelled out. I like the Minnesota idea that if I bid on a military contract, for instance, and I do an excellent job, automatically I have the next year a similar contract. In other words, I'd be awarded already by not having to tender, although I can also recognize that it has to be fair for other growers. People scarifying to better themselves will say, "This fellow is doing that for three years and we believe we can do the same."

As soon as you make it any lengthier than a one- or a two-year—I would go on an annual rollover no longer than two more times, in other words, you have the contract for basically three years, but still it can be taken away if you just—

Mr Bisson: So you'd like to see some sort of an automatic renewal if you do a good job for one year?

Mr van Duyn: Yes, on an annual basis, for instance. I wouldn't say the minister "should" but the minister "may." When I have a contract, I like that there are lots of "mays" in it, because it gives me flexibility. On the other hand, I contradict myself when I say there also should be some "shalls" in this Bill 171, because there are a tremendous amount of "mays." I was just flabbergasted.

When I plowed through it, I thought there could be a little bit more responsibility for the minister, that the minister "shall." The act is very penalty-driven as it affects forest companies. I know when they do something wrong they should have to face the music, but the question is, what if you do something right?

We had that same question when we grow our seedlings lots of times. I'm pretty proud of the seedlings we grow. We have a very good product. That's basically what we've been told, and that's it. The next season I start all over again. I felt there should be some kind of reward, which privately in my case is usually—I have not had all that much trouble to hunt up a contract while I believe maybe some other guys have.

The Vice-Chair: Thank you for sharing your views with us. I'd like to ask again, it being 11:30, is anyone here from the River Lake Timber Ltd? I think we should probably wait for another five minutes or so before we recess for lunch. This committee stands adjourned until 11:35.

The committee recessed from 1127 to 1134.

The Vice-Chair: Could we take our seats again. I'd like to ask again, is there anybody here from River Lake Timber Ltd, Jeff Spittlehouse or anybody else? Seeing none, this committee stands adjourned until 1:30 in the afternoon.

The committee recessed from 1135 to 1333.

ENVIRONMENT NORTH

The Vice-Chair: Take your seats, please. Welcome back. We're continuing the hearings on Bill 171. This afternoon the first presenter is from Environment North, the president, Don Smith. Mr Smith, if you'd please have a seat. Please introduce the members of your delegation.

You will have 30 minutes, and please leave some time for questions and answers at the end. Go right ahead.

Mr Don Smith: I'm Don Smith, president of Environment North, and I have with me several colleagues. Bruce Petersen is on our board of directors. He's mainly interested in the area of land use. He's been a member of the Brightsand local forest committee and the Wabakimi boundary committee. He pulled together the brief, so he'll be the main spokesperson.

Chris Clark is involved with the Lake Superior Alliance. He's on our board and his main interest is in water quality. He also took a bit of forestry when he was in university. He fights fires with the city these days. John Boulter is also on our board and is with the police, the city. His main interest is in energy matters.

Maybe just a few words about Environment North. We're a volunteer general environmental advocacy group; no staff, entirely volunteer. So whatever gets done gets done by volunteer forces. Our membership ranges from 200 to 500, depending on how well we do the membership drive that year. It hovers around 300 right now I guess. As I said, our main areas of interest, land use has been one of them, water quality is a big one, energy and of course waste reduction.

I'd like to turn it over to Bruce Petersen to present our brief.

Mr Bruce Petersen: We've put in front of you the brief that I'm going to present at this time, and I hope that will be of use to you. The members of Environment North care very much about the sustainability of our forests. We live in the north, and while we understand the importance of the employment provided by timber extraction, we worry about the impact of such extraction upon the natural environment.

Ontario encompasses some 1,068,200 square kilometres of land and water. In its first or natural state, our province had outstanding diversity of biological components and landscape features.

Today, 465,000 square kilometres has been designated as commercial forest where timber extraction is taking place. That represents 43% of the area of this province. Much of that area has already been cut, and we must hope that the second forest will sustain the biological, social and economic benefits of the first.

The replacement of the Crown Timber Act by the Crown Forest Sustainability Act clearly indicates an awareness that we can no longer manage our forests for timber extraction alone. Gone from the wording chosen is the old focus on timber alone, on only those issues related to the extraction of trees for commercial and industrial purposes. The proposed new act designates the forest as its focus, suggesting that a broader range of objectives than just timber extraction will be addressed. These objectives are to shelter under the umbrella of the word "sustainability."

At the outset of its mandate, this government issued a superb statement of principles in MNR's Direction '90s. In it, the government affirmed:

"MNR Direction '90s presents a major shift in policy direction that will guide our resource management activ-

ities in the 1990s. Sustainable development is the cornerstone of MNR's new direction."

Now, I know from contacts with local ministry staff that this document is a source of inspiration and encouragement, but in the introduction to it, Bud Wildman, the then Minister of Natural Resources, cautioned, "The process of developing sustainability will present challenges to us and other resource stakeholders as we move together from rhetoric to real meaning."

1340

Public cynicism about government makes this warning particularly significant. Governments must say what they mean and mean what they say if they are to regain some degree of public trust.

In its review of Bill 171, the Ontario Conservation Community, a coalition of Ontario's major environmental and naturalist groups, pointed to a major deficiency in the proposed Crown Forest Sustainability Act:

"Currently the act does not define, nor make reference to a definition of forest sustainability. The world has spent the last 10 years developing definitions based on the biological imperative inherent in the concept of sustainability. It is almost unthinkable that an act, titled as this one is, and dealing with a biological entity such as forests, could become law without such a definition."

How can a piece of legislation support a goal that is not defined?

Confusion already exists inside and outside the Ministry of Natural Resources as to exactly what its main mission is in the stewardship of our resources. Clearly, the public expects that its first priority is not simply the support of timber extraction.

Even the ministry's document *Hard Choices—Bright Prospects*, a report with recommendations issued in June 1993 and subsequently adopted by cabinet, while it is the effort of labour, industry and government representatives alone and lacks any public participation, acknowledges the following:

"The public began to demand greater influence in the development and application of forest policy. It called for sustainability in resource management—a guarantee that today's use will not damage the integrity of the resource or compromise the options of future generations. It demanded management of resources on an ecosystem basis, a major step beyond the sustained yield timber focus of the past."

The next sentence points up a problem. "In Ontario, as elsewhere in the world, few knew how to practise true ecosystem management—because that had not been a public priority." The fact that few knew does indicate that there are people around who are conversant with this approach to forest management, and it seems to Environment North that these are the people we should be referring to in assisting us to define "sustainability" and to get the whole process going in a direction we all can understand.

Environment North has participated in local citizens' committees and other MNR partnership committees and found both vision and commitment among local ministry managers and staff in finding ways of managing our

forests for a broad spectrum of ecological values. Most have taken MNR's Direction '90s seriously and have worked hard to implement its principles in practical ways at the field level. Often, they have faced resistance from the forest industry, which has not given approval and support to the principles of MNR's Direction '90s.

In the current climate of reorganization, staff reductions, budgetary cuts and income reduction, local ministry staff have maintained an amazing commitment to their jobs. They deserve a Crown Forest Sustainability Act that defines the term "sustainability" and that gives clear and unequivocal direction and legal support to achieving and to monitoring that objective.

Environment North supports the OCC brief in its call for inclusion of a purpose section that has been taken word for word from the forest policy framework adopted by the Ontario cabinet. This purpose section, then, would define the term "sustainability." Its inclusion would be consistent with the public statement of Howard Hampton, the Minister of Natural Resources, upon the April 6, 1994, announcement of the first Policy Framework for Sustainable Forests:

"I intend to produce new legislation for crown forests based on the principles found in the Policy Framework for Sustainable Forests. This policy sets out a vision for forest management which considers all forest values, and not just timber."

The minister's addition to Bill 171 of a purpose section drawn from the policy framework would prove that he and this government are moving from rhetoric to real meaning. The provision of this clear definition of "sustainability" will improve public confidence and support morale within the Ministry of Natural Resources itself. It's always easier to do a task when no ambiguity exists as to what the job really is.

Environment North supports the other suggestions for improving the Crown Forest Sustainability Act made in the OCC brief. Time is not available to comment on all matters contained in that brief, but one issue of pressing concern to Environment North must be mentioned, and that arises from subsection 31(1), amendments to forest resource licences, and subsection 32(4), withdrawals from harvest.

For nearly two years now, Environment North has participated with other stakeholders on the Wabakimi park boundary committee. This committee must make recommendations concerning the boundary of the present park. It hopes to devise a consensus option to present to the ministry regional director. Expansion of the park might involve withdrawals from several licence areas.

Subsection 31(1) and subsection 32(4) could make expansion of this park and the completion of a protected area system or the establishment of other sorts of reserves on crown land subject to any objection that the forest industry might raise. We suggest that the wording be revised to clearly maintain for the minister the options he requires to accomplish such withdrawals.

The passing of the Crown Forest Sustainability Act could be a major achievement for the present sitting of the Legislature. In the view of Environment North, that

promise can only be achieved by, firstly, the inclusion of a definition of "sustainability" based upon the Policy Framework for Sustainable Forests—which, by the way, local people had a great deal to do with; the co-chairs were Dr Peter Duinker from the Lakehead school of forestry and Margaret Wanlin, a local consultant, so we local people do have a great interest in what is done with that report; it's approved by cabinet, and we certainly hope that the efforts of these fine people are taken into consideration and are used, as the minister did promise when the report was initially released—secondly, the changing of wording to ensure the ability of the Ontario government to settle aboriginal land claims, create new protected areas or recreational reserves or to designate crown land for other non-timber purposes; and finally, a clear and enforceable framework empowering MNR managers to attain the cooperation of the forest industry in achieving the objectives outlined in the definition of "sustainability."

Mr Carr: Thank you very much for your presentation. We appreciate it; it was very good.

On page 4, you talk about the definition of "sustainability" under the Policy Framework for Sustainable Forests. You're one of the few people—I shouldn't say "few people." A lot of people have come in and said they don't like the definition, but they haven't really given us an example, and you're very definite.

My understanding is, though, that a lot of the people involved in the industry, for example, some of the people like Abitibi-Price, a lot of people who have come in, would not find that acceptable. I'm wondering how we balance what you want with what a lot of people in the industry want. They're talking about a definition which is different than yours. How could we put that definition in if in fact people like—and I think—

Failure of sound system.

Mr Carr: —in Len's riding—say we need a definition, but they would not support this definition. How could we put that in the bill when in fact there would be industries that could not support it?

Mr Petersen: I would think that the strategy I would adopt, Mr Carr, is to ask the industry to produce their own definition of "sustainability" in order that it could be put out in a public forum and we could understand what they mean themselves by "sustainability."

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Certainly, for long-term benefits, the forest must be sustainable, and their economic interests can only be supported by the renewal of the forest in such a manner that there will be long-term supplies of fibre. I'm afraid, from my experience, that the industry's primary concern—and, of course, they've been under a great deal of pressure economically recently—is merely to get wood for the present into the woodyard, and the sustainability of the forest has not been a significant concern.

I can give you a specific example of that. As was indicated, I sat on the Brightsand local citizens' committee. There was a five-year review done in 1985. The review is by an independent committee. There was one former MNR employee, one former company person and

a professor from Lakehead University. One of the suggestions made in the five-year review was that discussions be undertaken and studies done, since the mill required 90% furnish from black spruce for its newsprint, on the availability of black spruce from this particular unit. No such study was ever done.

So I think the objection to a definition of "sustainability" might come from that desire to avoid long-term planning. I think that we must think about the future. We know the difficulties that our young people are now having in getting jobs, and if in the future the forest resource is not going to be there sufficient to sustain the jobs that presently exist, we're going to be in deep difficulty. So I would suggest that this committee should request the industry to provide them with a "sustainability" definition.

Mr Carr: I agree. I don't know if you were here, but I asked Abitibi-Price about that as well. A lot of people seem to be saying, "That's your job." I think one of the reasons that the bill didn't touch on this issue is because they couldn't get a consensus. As I mentioned this morning, what happens with governments—and I don't say this to pick on this government—when they can't get a consensus before, they leave it very vague so that they can blunt opposition on both sides.

Let me ask you this: You've worked and dealt with the industry. If there is compromise on both sides, with a lot of work on both sides and a little bit of give and take—and I asked Abitibi-Price this today, and they said they thought they could get an agreement that a lot of people would live up to or could agree to—do you think we can get a consensus on the definition that both you and the industry can live with?

Mr Petersen: I think there must be, objectively, a consensus which can guarantee the health of our forests on a broad spectrum of values, both for the benefit of the people of the province as a whole and for the forest industry, which of course is important economically to us. I think a forum would have to be established within which that debate could go on. It would be interesting then to learn what the view of the forest industry really is relative to sustainability.

Mr Wood: Just a follow-up on that. I guess going back almost four years ago, when I was the parliamentary assistant to Bud Wildman, we talked about the ecosystem and the sustainability of the forest. From my understanding now, it's gone back even prior to that. Floyd Laughren and Bud Wildman in opposition, or when they were in the third party, talked about getting ways and means of updating the timber act to go into the future.

We've heard comments coming out that you could give an explanation of sustainability which could take in 300 pages, or we could have a brief definition of "sustainability" in the purpose clause and then a broader explanation of it in the manuals, which would be regulated. I'm just wondering what your preference of that would be, which area.

Mr Petersen: I would think that the definition of "sustainability" should go in the purpose area. This is the suggestion of the Ontario conservation committee. That is where legal definitions of that sort generally appear

within an act, and then it can be worked out in detail in the remainder of the act and the regulations.

Mr Wood: Two of your recommendations cover sustainability and the cooperation of MNR managers and the industry working towards a definition of "sustainability," and number two, you're talking about setting aside lands for recreational reserves and crown land for other purposes. Right now, timber companies, the pulp and paper industry pay area charges on a lot of this land. If there are areas set aside for purposes other than forestry, like remote tourism, recreation of other kinds, who should be paying for the area charges to maintain that? Do you have a particular view on that?

Mr Petersen: I heard that criticism in the news media, and at first I thought that it was a red herring drawn across the whole issue of sustainability. The forest industry is the major user of 43% of this province. There are, of course, mining concerns, which occupy much less area. Remote tourism, I think that they do use the lakes for hunting and fishing purposes, and there are licences which are collected in order to offset that use. Perhaps more user fees should be applied to those particular uses of the land base. Where parks are concerned, the people of the province as a whole benefit, and certainly the daily rate for use of the park has increased significantly, and I think that's been taken care of. So I still consider that as a red herring.

Mr Wood: The other comment, it's not really a question, but some of the comments that I and Howard Hampton have been making is that there are basically 50 communities out there that are totally dependent on the renewable resources that we have out there, and sustainability of that is to make sure that we protect jobs, protect communities, protect the forests out there, protect the wildlife and try to create some jobs.

As we announced about a month ago, three new operations will be starting up in northwestern Ontario, and we're hoping to get some more from what were considered to be waste species, poplar and birch, that are now going to go into new operations. That's just a comment I wanted to make. That's one definition of what we feel sustainability has to do in the long run, no matter what definition is finally drafted into the legislation or manuals.

Mr Petersen: Might I pose a question for you? In the enlargement of these enterprises, has the government determined what the biological limits are within the forests that we're taking these from? This is of concern to me, and I think there is research going on that has used satellite technology to review just how much cut has really gone on within the province. I hope those results will come out and give us a better fix on what is biologically possible and sustainable, because I think a lot of these towns that build up are single-industry towns and they don't have any safety parachute once those resources are gone. With the kind of technology that we have developed within the forest industry, we are increasing on economies of scale where we lose jobs as a consequence of the technology, and the return to the people in terms of jobs is becoming ever decreasing in number.

I have statistics from Statistics Canada which indicate

that across Canada, from 1978 to 1989, the amount of wood cut was doubled; the number of jobs provided was halved. So I think we have, in terms of sustainability, another issue here which is not addressed: What kinds of jobs are we going to require per hectare of wood cut? That's an important issue for unions and also for Environment North and people of the north.

Mr Wood: Sure. There's no doubt that studies are going to have to continuously go on to see how we can protect jobs, create jobs and sustain some of the other jobs that are out there. What you're saying, I'm not going to argue with it, because I had almost 30 years working for Spruce Falls and I know the manpower they had 30 years ago compared to what they have now in the woodlands and in the mill.

1400

Mr Brown: I too enjoyed your presentation, very well put together, and I share your concern with the defining of the term "sustainability." I also have great problems knowing what an ecosystem is, according to this bill anyway.

I guess the government's suggestion, if I can kind of bottom-line it, is that in the regulations and in the manuals, that is sustainability. If you take them in total, this equals sustainability.

My question to you is, according to your definition, your preferred definition of "sustainability," do the regulations and the manuals equal sustainability?

Mr Petersen: Mr Brown, unfortunately I haven't seen the regulations or the manual. We made a request at the beginning of last week, and that hasn't come through the mail yet.

Mr Wood: They haven't posted it.

Mr Petersen: The postal service, I guess.

Mr Brown: Blame it on the feds, Len.

Mr Petersen: In my discussions with Ray Riley, the assistant deputy minister of operations before he retired, we were addressing the definition, within the old Crown Timber Act, of "sustained yield." Since Direction '90s says there's a major policy shift, I questioned him as to what impact that had upon the working definition, within the ministry, of "sustained yield." He said in a letter to me that there really was no change but, similar to what you were saying, that within the ministry itself all sorts of initiatives were being devised to address water quality, to address—the one issue that he did raise was woodland caribou.

You may be aware that the minister has set aside the need to devise a provincial policy on woodland caribou, but within the northwest region the ministry is endeavouring to set up an interim strategy for regional purposes because the habitat of this particular animal is being pushed farther and farther north.

There is a policy memo the ministry has brought out that there is supposed to be no across-the-board decrease in the number of animals as a consequence of timber management.

Of course, establishing the number of animals as far as woodland caribou are concerned is very difficult. The

more research we do the more we find, which doesn't mean there are more, but there may even be less.

Mr Riley was suggesting that he supported that entirely, and that was one of those efforts they were making in a practical sense to achieve sustainability, in this instance, of woodland caribou, for example, within the regulation and the kinds of policies that they were working with.

I find Direction '90s is a superb statement of general principles. People have told me it's just motherhood. Well, motherhood's pretty important too. I find that local ministry people at least, by and large, have caught a vision from that, and that's what I would see as being the importance, within the Crown Forest Sustainability Act, of achieving some sort of definition—and of course the cabinet has already approved one that is found in the policy framework—some sort of general principle that will inspire people out there. I think we all need that kind of inspiration, and certainly that seems to be what general business administration theory is moving in the direction of.

Mr Brown: I'm sorry that you haven't had an opportunity to see the manuals and the regulations. They are available and have been for about a week or two. But I think that's the kind of question we as legislators need to know: Do the regulations and the manuals fit the definition that you believe is the appropriate one for sustainability? If they don't, then we've got a problem. If they do, maybe the government's right and it shouldn't be defined, but the regulations and the manuals do it themselves. I'm not convinced that's the right view, but it seems to be the one being articulated by the government. The other question I have to ask you—

The Vice-Chair: We're almost at the end.

Mr Brown: Almost at the end, so we have time for a question. The timber EA I've talked to speaks to an availability of about 50% increase in cutting in this province, but we don't really know what the government's view of that is, other than that the EA has reported and the government has adopted the recommendations of the EA. What is your view?

Mr Petersen: Mr Brown, I have read portions of the EA hearing and I'm not certain how to answer that. One of the things that I ran across was the fact that an exact inventory of wood supply is not available. There are computerized programs which suggest wood supply availability. I think they are questionable, and my impression is that there is far less wood out there than the EA hearings would lead us to believe. Certainly, one of the things we have asked for as an entire committee, the Wabakimi Park boundary committee, is that if there were any withdrawals for the purposes of park expansion, some mitigation would be provided by the ministry. Company people have questioned the availability of mitigation for a withdrawal for park expansion. That leads me to wonder just what exactly is out there. Nobody likes to hear bad news, but I sometimes fear cod fishery scenarios.

Mr Chris Clark: I have something I'd like to add. I'll be brief.

My name is Chris Clark. We talked this afternoon

about ecology. We talk about sustainability and we talk about it in human terms. I would simply just like to read a short quote from a book:

"When the hunter goes out in the rain forest to seek food for his family, does he expect to control nature? No, he imagines that nature is beyond him, beyond his understanding and beyond his control. Maybe he prays to nature, to the fertility of the forest that provides for him. He prays because he knows he doesn't control it. He's at the mercy of it.

"But you decide you won't be at the mercy of nature. You decide you'll control nature, and from that moment on you're in deep trouble, because you can't do it. Yet, you have made systems that require you to do it and you can't do it and you never have and you never will. Don't confuse things. You can make a boat but you cannot make the ocean. You can make an aeroplane but you cannot make the air. Your powers are much less than your dreams of reason would have you believe."

We deal with the natural world, and it is from the natural world we will have to draw the definitions of "ecology" and, most importantly of all, "sustainability."

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ATIKOKAN LOGGERS AND CITIZENS ORGANIZATION

The Vice-Chair: The next presenters, the Atikokan Loggers and Citizens Organization, are here, I understand. Mr Larry Guillet, please have a seat. Also I should say, for any presenters who are interested, as you probably have seen, we do have facilities for simultaneous interpretation, so if anybody wants to use French the opportunity is being provided. You have half an hour, and please leave some time for questions and answers. Go right ahead.

Mr Larry Guillet: Mr Chairman, panel members, ladies and gentlemen, my name is Larry Guillet. I'm chairman of the Atikokan loggers organization and I'm also an independent logger. I'm here today to bring your attention to a few of our concerns regarding Bill 171.

(1) The first matter of concern pertains to the local citizens' committee, page 6, section 12, also page 32 of the forest planning manual draft. I refer you to the committee composition which includes—I don't know if you have this. I went to great pains to receive it myself. In the composition of this local citizens' committee, section (1) says "small independent loggers."

We, as an organization in Atikokan, tried to get on one of these citizens' or advisory committees. It was a resource management advisory committee. I applied as a citizen and was turned down by the manager of the Ministry of Natural Resources because, I was told, I had a vested interest in the forest industry. There's a copy of the letter right here. That is our first concern.

(2) The second concern, the opportunity to remain independent contractors. I refer to subsections 13(2) and (3) and 23(2) of the proposed bill, if we could just go through this for a minute. I'll not read it all because it's right there in front of you. Our basic concern with these two sections and basically the whole bill in general is that it is going to take away our right to be independent

contractors. The way it's going to do this is that every independent contractor, no matter if he's a 1,000-cord contractor, a 20,000-cord contractor or more, will have to have a registered forester to produce his management plan. A small contractor will not be able to afford this.

What we are being told and what is recommended to us by the Ministry of Natural Resources is that we form co-ops. If you form a co-op you are no longer independent; you rely on someone else. The word "independent" is self-describing. If we cannot be independent we're not going to operate. If you take away the small independent contractor, you're going to reduce jobs in Ontario by a great, vast amount.

Howard Hampton himself said, in the Hansard report that I read: "...200,000 jobs in Ontario...40%, in fact...in southern Ontario...Nearly 50 communities in northern Ontario depend for their economic health on forest industries.... Those 200,000-plus jobs produce nearly \$12 billion in forest products for our economy." This is a great, great dollar value for a government that's seeking more money. To lose even part of that, can they afford it?

(3) Unit allocation: It's not even mentioned in this bill. An example: Large companies go into a block. They find that one section, they're told, has X number of cordage. If they find that it is not there, they can move to another block. A small contractor goes to his allocated tract of land and the wood is not there. He has to go back to the Ministry of Natural Resources and tell them: "The wood's not there. I need another block." This process takes four to five months as it is right now. The way the Ministry of Natural Resources is cutting back, with this new bill you're looking at eight months. That man has to sit around for eight months. He has employees and those people are sitting around for eight months. They either go on UIC or go on welfare. If they go on welfare, that's another drain on our taxes.

The system has to be simplified. Planning requirements, meaning lost time and all this, the time of delay has to be shortened. One way I can suggest would be to give the district manager a little more power to intercede, to allocate a new parcel of land, and I refer to section 41 of this Bill 171.

(4) Matters of tenure: They're not mentioned in this bill. An example that I can give you is that companies such as Domtar and Abitibi that have large forest management areas have dramatically downsized their operation, yet still hold a tenure to these tracts of land or areas which are not being harvested. These tracts of land, FMAs as they are known, should revert back to the crown for redistribution to smaller contractors or other companies, which in turn would generate more employment.

(5) Stumpage: The new stumpage system is not mentioned anywhere. The biggest stumbling block that we have is two words, "residual value," a real problem. If residual values are implemented in the forest industry this will leave the door open for any and all other aspects of free enterprise to be taxed unfairly. Residual values are a tax and there's no way of getting around it and we cannot afford it.

(6) Roads: No mention of roads anywhere in Bill 171. There is mention in the draft. I refer to page 282, appendix 18 in the amendment package, and all that is is that anybody who is going to operate under Bill 171 is going to have to fill out road reports. Who's going to build these roads? The contractor? The Ministry of Natural Resources? The contractor cannot afford to build roads—six miles to a stand of timber. The money's not there. Maintenance and building of roads should be made very clear in this document.

I'm jumping all around here because I had very little time to prepare for this, I'll tell you right now.

Section 48, and I'll read this one because it's really short:

"1. The funding of silvicultural expenses in crown forests where forest resources have been killed or damaged by fire or natural causes."

Under the new stumpage system implemented by the honourable Minister of Natural Resources he would set up a trust fund. I understand from this clause that moneys to regenerate forests killed or damaged by natural causes are to come out of that trust. You're telling me in this that out of the stumpage fees that we pay, we have to pay for things we cannot control. We cannot control Mother Nature. This funding of silviculture should come out of another source, not out of the stumpage fees. That pretty well concludes our concerns.

In conclusion, I would like to thank this committee for allowing me to air a few of our concerns. However, I would like to have been given more than two working days to prepare for this. I received this draft Thursday night at 9 o'clock. I'm working 260 miles away from my house. I have no way of preparing anything. I received Bill 171, the actual document, Friday on my way home, thanks to Lyn McLeod's office.

In closing, I would like to thank this committee for letting me sit here and get the feelings off my chest, and a few of the concerns of the fellows I represent.

1420

Mr Wood: Thank you for coming forward and giving us your views on some of the concerns that independent loggers have out there, especially in your area of Atikokan.

I just want to answer one of your concerns there as far as the forests that are damaged by fire and wind. It isn't the stumpage fees that'll be going into that trust fund. Approximately 50% of the area charges that are assigned out there now would go into that fund and the fund would build up for that particular purpose.

You've touched on quite a few different areas as to how the small independent person should survive out there. I'm just really going to throw that back at you and say, what do you think we should do or what amendments should we bring out in Bill 171, or the regulations and that, which would address your concerns?

You made a comment that you don't think co-ops would work or that large associations are the answer. I just want to get feedback from you as to what amendments you'd like to see or how you think we can address your concerns. We heard from independent contractors

around the Cochrane area and I'd like to hear your views as well on how you think we'd be able to address your concerns.

Mr Guillet: Are you looking for an answer pertaining to co-ops specifically or are you looking for an answer to everything that I suggested in general?

Mr Wood: Well, I'm looking as—

Mr Guillet: I cannot answer unless you say one specific thing. Let's take one thing at a time and then maybe I can answer or give you some suggestions, but I can't generalize.

Mr Wood: Okay. If there are 20 independent contractors out there who are all having the same problem—and it seems like that's what it is, because I've had the discussion with you on at least one or two occasions over the last number of years—how can we, as the government, make your situation something that you can live with?

Mr Guillet: Co-ops won't work. You put 20 loggers together in one room and you're going to have a fight. I'll tell you that right now.

Mr Wood: Okay.

Mr Bisson: So much for cooperation.

Mr Guillet: They are independent for one reason only. It's probably because they can't get along with anybody else.

Mr Wood: But it works for doctors and lawyers and—

Mr Guillet: Doctors and lawyers are a different breed of people.

Mr Wood: They can have co-ops and unions and—

Interjections.

Mr Guillet: The thing is, Bill 171 repeatedly states that you will have to have a recognized forester do your management plan.

Mr Wood: Yes.

Mr Guillet: Most of these independent contractors over the years have been doing their job, doing it well, with very little harassment. Actually, "harassment" is not the right word. They've been doing their job well with cooperation with the Ministry of Natural Resources. The Ministry of Natural Resources could supply a forester to do the management plans or do it in forms, blank forms, in a blank form situation like we're going into. I can give you—"This is your crown management unit and these are where your road's going and this guy signs it." If it ain't broke, don't fix it, and you have a situation here where it's not broken. It's obviously being well done.

Mr Wood: That's not what—

Mr Guillet: I can give you another example. Leon DeGagne in the Flanders management unit has been doing his job and doing it well for years. Now, in this Bill 171, he's going to have to hire a forester. He hasn't needed one, but the Ministry of Natural Resources is telling him now that he's going to need one. There has to be some give and take here.

Mr Wood: I understand what you're saying. I don't think—

Mr Guillet: I'm probably not coming across. I would have liked to have more time to prepare.

Mr Wood: But I—

Mr Guillet: And another thing: If a contractor has to grow, under Bill 171, to survive, he goes to the moneylending organizations. The government passed a bill earlier this year or in 1993 concerning borrowing money off banks, with 10% down and a government-guaranteed loan. Most banking institutions won't honour that. It is not worth the paper it's written on. As far as banks are concerned, a logging operation is a high-risk endeavour.

Mr Wood: I know my partner Mr Bisson wanted to ask a question, so I'll leave my time for him.

Mr Bisson: I was just curious. You were raising the question of foresters doing forest management plans as normally the case, but under the act—if I understand, you're an independent operator.

Mr Guillet: That's right.

Mr Bisson: Do you presently do your—it's done by the crown?

Mr Guillet: We don't have to have forest management plans presently.

Mr Bisson: You're on crown units, right? Your trees are on crown—

Mr Guillet: Yes.

Mr Bisson: Just by way of explanation, the forest management plan is done by the ministry and that's what would happen under the act.

Mr Guillet: That's not what it states in the act, Mr Bisson.

Mr Bisson: The two licences under the act, section 23 is what you would now consider an FMA, or an order in council, and section 24 would be like a district cutting licence that you have presently. If the operator chooses that he or she wants the ministry to prepare the forest management plan, or, as Mr Wood suggests, they come together under a co-op to be able to do it that way, it's entirely within their purview to do so. But the bottom line is what we need to correct. We need to make sure that we have the money there and the mechanism to do the reforestation on crown units that presently doesn't happen at times. That's basically what we're trying to do here, along with some others, just by way of clarification.

Mr Brown: We certainly appreciate your coming today. I recognize the difficulties that you have with the tight time frame, so to speak. We've all had some difficulty, a major difficulty in digesting the material that has been provided in the short period of time that's been available. Your industry, I think, is one of the most problematic to sort out under this bill. I've asked a lot of questions, as have several members of the committee, trying to determine exactly how it will work for the independent loggers. Seeing as you've already been hit over the last few years with huge increases in stumpage fees, you've had your area fees doubled and at the same time you've received, if I'm correct, less support from the Ministry of Natural Resources, how do you think this bill is going to impact on your bottom line?

Mr Guillet: The bottom line? It's going to kill the little contractor. The intermediate-size contractor, if he wants to survive, will have to grow. This means he'll have to go to banks to borrow more money. The big contractors will get bigger. The small contractor will cease to operate.

1430

Mr Brown: One of the issues you alluded to is the issue of allocation, who gets what, and one of the things that's interesting is that this government talks about a competitive process, I believe. The problem with talking of a competitive process is that they provide us with no criteria to evaluate the competitive process, so we're not very clear over here in the opposition about what it is you're being competitive on. Could you give us some suggestions about allocations and how you would like to see it done so the people of Ontario get value from their resources and we can continue to employ people in the best possible way in the forests?

Mr Guillet: I refer to the example I gave of Domtar and Abitibi. Domtar has vast FMAs. They have one little mill in White River. If they have FMAs and they're not using them, these FMAs should resort back to the crown. An example would be, the trapper who does not utilize his trap line will lose it. It reverts back to the crown. The same should happen with large companies. If they're not using what they have, they should lose it. It could go back to the crown and it'd be distributed to the smaller independent contractors, which in turn would generate more employment. That's a primary example. Does that answer your question, Mr Brown?

Mr Brown: Yes, thank you.

Mr Miclash: Larry, I thank you for the presentation as well. I think you've represented the independent logger throughout the north quite well in your presentation.

You were talking a little bit about roads, something we haven't heard anything about as of yet. I'm just wondering if you could maybe elaborate on what happens today in terms of the building of these roads into areas you have to access and what you might see should be happening in the future.

Mr Guillet: Well, for years, we in the Fort Frances-Atikokan district were paying what is called a bonus in our stumpage fees. This bonus was supposed to go to road maintenance and roadbuilding. The Ministry of Natural Resources doesn't build any roads any more. They do not even maintain the roads they have. The onus is on the contractor to build roads, which in turn are used by the tourist outfitters, citizens. He has to fork out the money to build them. Roadbuilding is the highest expense a contractor has. We have to have stipulation of who—we need help, and, Mr Wood, you can bring this back to Howard. We need help with roadbuilding and road maintenance.

Mr Wood: When's the last funding you got for roads?

The Vice-Chair: You go talk to Floyd. Mr Miclash, are you finished?

Mr Miclash: Thank you.

The Vice-Chair: Mr Hodgson.

Mr Hodgson: Thank you, Larry. When you go last, a lot of the issues have already come up. I enjoyed your talk. You talked about a number of things we're in total agreement on. As a party, we've been looking at ways to make our economy more competitive, and as you mentioned, the small independents are a major part of our economy, at least in the area I come from and all throughout northern Ontario.

You talked about the tax on these residual values—you're against that—and the citizens' committees, the fact that there's no specification of criteria for selection or of what their mandate will be and how much power they'll have. I was interested in hearing your ideas on the roads. I've had some experience of building those. They are expensive.

But I'd like to just have one clarification. You went over it rather quickly. This is the idea of this unit allocation. If you've been given an allocation and the species is not there, then you have to apply to get another allocation and it could take five months while you're still paying payments on your truck or whatever.

Mr Guillet: That's the way the situation is now.

Mr Hodgson: Is there not an inventory that identifies what type of trees are on crown units today?

Mr Guillet: There is inventory, but this inventory is so outdated that in a lot of situations—it happened to one fellow in Atikokan just this year. The ministry allocated him a section on an OIC, order-in-council, licence. He went into the area, and the wood had all been cut.

Mr Hodgson: The wood had been cut but they issued a licence for him to cut it again?

Mr Guillet: That's right. He had to sit around, sit around until finally he was hired on by another contractor. The data that the Ministry of Natural Resources have at this stage right now in a lot of instances are outdated. The Ministry of Natural Resources is steadily cutting back, and if you wait five months now, what is going to happen two years down the road? With the cutbacks going on in the Ministry of Natural Resources, you'll be looking at eight months minimum. It's a great concern.

In that area I talked about, licences run from April to the end of March, April of one year to March 31 of the next year. Invariably, the licences are late. A lot of times contractors are sitting around in June still waiting for a licence to be signed by the Minister of Natural Resources. This process should be speeded up. A contractor shouldn't have to lose a day. He should end up one licence on March 31 and be able to start on his new licence April 1. Time lost is money lost.

Mr Hodgson: Do I have time, Mr Chair?

The Vice-Chair: You have time for one more question, if you want.

Mr Hodgson: Okay. You're saying that the inventory we have on what exists on the ground is outdated. Yet we're told that there's an extra supply of trees, that we can open new mills. This must be an isolated case where we're not sure what the inventory is, because we're told that it's going to be sustainable for the future. What area do you represent? That's the Atikokan loggers—

Mr Guillet: I represent Atikokan loggers' association.

Mr Hodgson: Okay.

Mr Guillet: Do you want my personal opinion?

Mr Hodgson: Yes.

Mr Guillet: This is not the opinion of the Atikokan loggers' association.

I don't know where they're getting the wood for their new mills, the availability of the wood. The wood may be there. This brings us back to this problem of growth. The wood may be there—

Mr Hodgson: But you can't afford to get it out.

Mr Guillet: —to sustain three new mills in northwestern Ontario, but I do not have the data to say that it is or it isn't.

But I do know that you have two problems. Roads are the biggest problem. If the wood is there and it's accessible—the high percentage of the accessible wood would be surrounded by regeneration. If the contractor goes in to log off the poplar and the birch and he runs over any regen, he's going to be fined and fined heavily. He's caught between a rock and a hard place.

I hope it works. I'd be happy as anything to see three new mills go up in northwestern Ontario and be producing.

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BUCHANAN FOREST PRODUCTS

The Vice-Chair: The next presenter is Buchanan Forest Products, Mr Glen Swant. Have a seat, please, and introduce yourself and the gentleman who's with you. You will have half an hour. I think you were here, so you know a little bit the procedure. Please leave some time for questions and answers at the end. Go right ahead.

Mr Glen Swant: I'm Glen Swant. I'm the chief forester at Buchanan. Hartley Multamaki, to my left, is the coordinator of corporate development.

Mr Hartley Multamaki: Let me say that we're pleased to be here today and able to make a presentation to this standing committee. Buchanan Forest Products supports the need for this new legislation and we understand what necessitates bringing it in. The Crown Timber Act has remained relatively unchanged for a great number of years and we see that there is the need for a change.

We'd like to point out that in the past it was the Crown Timber Act and it's now being changed to the forest management act. There has been a certain amount of uncertainty, I guess, out there as to whether it's timber management or forest management. I guess as far as the forest products industry goes, industry is going to end up bearing a great deal of cost for what's now being called forest management, and I think we need to keep that in mind. I also think a lot of the other use programs that are out there are going to depend on the forest industry to bring them about.

Our organization also supports the principle of sustaining the forest products industry, sustaining the jobs that go along with it and sustaining the communities that are associated with the forest products industry. We also strongly support the concept of sustaining the forest that supports the industries, jobs and communities.

Our position with respect to this bill is that we want to

make sure that it's right before it's passed, that in fact the bill itself has all of the t's crossed and the i's dotted before being brought through for third reading. We'd like to see it redress some of the inequities that are out there in the forestry sector. We know these have built up over a number of years and we recognize that's part of the reason for bringing this bill forward.

One of the things that disturbs us is the short time frame that's being allowed to bring this bill to completion. We really see that there's more time required, particularly for our technical and professional staff to review and determine the impacts this bill will bring in. We see that the manuals that are associated with the bill are an integral part of the bill itself, and they seem to be in an unfinished state. We would like to see that corrected prior to third reading, and we would like to know that industry will be an active participant in all stages of the preparation of both the bill and the manuals. I think we all recognize that industry is going to be impacted to the greatest single extent. We'd also like to know with respect to the manuals what changes are being contemplated if the manuals should be in an unfinished state when the bill passes.

Another point we would like to see addressed is a definition of the industrial land base for the forest products industry, both in terms of volume and in terms of geographical extent. We recognize that the volume component could possibly be dealt with through the timber production policy, but again it's in an unfinished state as well. We see that as being critical to the continued operation of the forest products industry. We have to know where and how we can operate in this province.

It also brings up the point of licensing. It's our understanding that the existing forest management agreements will be reconfirmed through long-term licences and the remainder of the licences, company licences and order-in-council licences, will be essentially reduced to a five-year term. The company licences concern us to a great degree, because in the past they've traditionally been 20-year licences and a number of companies have accepted that as a long-term commitment to wood supply.

As a sawmilling company in northern Ontario, we see the concept of best end use as being vital to our continued operation. We really see that sawmilling by-products are an integral part of that equation, that they should be considered to be the first priority for pulp supply or fibre supply. We also see the need for licensing the various wood-processing facilities that are out there: sawmills, pulp mills and so on. I think we need to know where these facilities are, how much they're using and so on.

This leads in to the question of surpluses, or non-utilized fibre, in the forest. We feel this non-utilized fibre should be made available, I guess with the condition that it be used in the most effective and efficient manner possible. I really think it should benefit industry in the province and it should benefit the people of the province, and it should be used in that fashion.

One of the concerns that has been raised at the field level by our field level staff is the issue of a loss of flexibility or a reduced level of flexibility. A number of

the technical and professional staff have indicated to us that with the passage of this bill, their hands will essentially be tied in a number of areas.

One of the areas they've brought up is the pre-harvest operational prescriptions. It is of concern to these staff members because they feel that they will be tied in to a program and not have the ability to adjust it based on operational considerations at the time they're implementing a program. I think throughout the bill we have to rely on the field staff being able to deliver the program. They're highly trained, they tend to know what they're doing and I think they should be allowed to operate in a technical and professional manner.

Along the same lines, I think they should be judged by their peer group whether or not they are delivering the program they said they would, and the judges, the auditors, the monitors and the reviewers should all be qualified to judge exactly what they're doing, whether they've done it and where they have had problems.

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Throughout the act, it talks about infractions and penalties, and we find that, first of all, it's confusing. An example of that is sections 55 and 61. There seems to be a fair bit of overlap between the two. If you look at the sections, it talks in terms of there being \$15,000 penalties for one infraction and in section 61 a \$1-million penalty for the same infraction. Issues like that I think need to be cleared up.

The other issue is, we don't see penalties as being a very progressive way of dealing with the whole situation with infractions. We really see it as a situation of punitive measures. We would like to see the option for restorative techniques or restorative methods being applied where an infraction has occurred. In other words, rather than simply issuing a penalty, collecting the money and walking away, we would much prefer to see that the problem is solved. The problems and the infractions you see out in the field really are a biological problem, and money isn't going to solve that. Work in the field will, or in some cases may, and we see that there should be the option available for the government to allow for restorative action where this is taking place.

The other thing is, the seriousness of the infraction should be reflected in the bill, and we should look at things like frequency, impact, the magnitude of the problem and so on.

I think another important point is the costs. We really need to look at what the cost of implementing this bill is going to be, and that's in terms of direct cost to industry and direct and indirect cost to the people of Ontario. I'm not sure we have fully examined or reviewed the cost of bringing this bill in. I think there's every indication that it's going to be significantly more expensive for the industrial forest users and that industry will carry a much bigger burden of the cost.

I guess, as an aside, we also see that the Carman exercise has some influence on this bill, or vice versa. It would have been nice to have had an answer from Mr Carman on the new business relationship, as we would expect it will be reflected somehow in the bill itself.

In closing, we have a number of what we would consider to be relatively minor comments, not of an extremely serious nature but areas where we need clarification. We have questions, comments and so on, particularly with respect to the various manuals. We recognize that they're in an unfinished state and that a lot of these may be cleared up over the next several weeks or months, and it's our intention to follow this up with a brief discussing each of those minor issues. We don't feel it's appropriate to bring that up at this forum.

Thank you very much. We really appreciate being invited here today to make a presentation. If you have any questions, we'd be happy to answer them.

Mr Swant: I'd just like to add that for those of you who don't know, the majority of our wood supply is not licensed directly to us. It's licensed directly to pulp companies or whatever. Our wood supply is unique in Ontario in that we operate through arrangements with other companies, either exchanging raw products or by-products and so on and so forth. So what you do to the Ontario painting will affect us regardless of what you do, so you have to take that into account when you start looking at licence situations. That's all I wanted to say.

Mr Miclash: Glen, you touched on a little bit of the cost of things that you're going to incur in terms of Bill 171, and you've also indicated that you really haven't had a chance to go through the manuals thoroughly, but what are some of the things you see right off the bat in terms of 171 and the cost to both your company and the effects that will have on jobs throughout the area?

Mr Swant: If you look at just computer programs for recording data, we have a number of programs that we use that are not recognized by the government. They provide the data. They give you the information that's required, but they're not the programs that are listed in the manuals. So for us to convert our computer programs to that sort of information is a big cost to the company. In that manual, if you look at the information manual, there is a list of the information that's required, and beside each one is the computer program it's required to be recorded on. We don't like that because we record information in one way, and I know other companies record information in other ways that are not on that list, but the bottom line is, that information gives you those data that are required. You know what's happening out there.

Mr Multamaki: Another example of that would be these pre-harvest inspections, or prescriptions. We presently have staff who do field inspections or field surveys on those areas we intend on harvesting. Again, that portion of the manual is not completed yet, so it's not a definitive answer, but we see that there would be additional costs, but it's our feeling there's no requirement for the additional information. We don't see any real purpose in that for our use, and that's a direct additional cost.

Mr Miclash: You may be interested to know we've requested, actually, a cost-benefit analysis of Bill 171 from the ministry, and of course we'll be looking forward to that before we get into clause-by-clause and getting on to, again, how it's going to affect industry and jobs in the northwest.

Mr Ramsay: I just want to comment on the point you just made about the computer programming. I don't know why the government's in the business of telling companies how to do things. I think we should as a government certainly require you to adhere to plans and do the planning and certainly set some standards and principles, for sure, that you should adhere to, but I think we should allow you the creativity to find a way to do that and just set the guidelines. So I really agree with that point. That's something we'll be pushing here.

Mr Hodgson: Thank you for coming in today. I just want to follow up on something that Mr Ramsay just referred to. My vision is that the government will set the standards and then there will be an audit afterwards and enforcement and the industry will have to do the hands-on work. As was mentioned, we've asked for the cost-benefit analysis not only in terms of the MNR and its projected budget for the next few years, but you're suggesting a cost-benefit analysis for the industry. How long would it take you to do that?

Mr Swant: First you'd have to give us the completed manuals, the last versions—

Mr Hodgson: Exactly.

Mr Swant: —so we know exactly what it is. We could do that if we were asked to. It might take two, three months.

Mr Hodgson: It should be considered before we pass a bill that would have an impact when we're trying to keep this industry competitive with the world. It's just in the last little while you've been able to get back on your feet through a number of setbacks.

But I want to go back to this thing—and this is something we've been asking for for a number of days now—about a “need to define and identify the province's industrial land base both in terms of volume and geographic location.” Now, if you're going to define volumes in a geographic location, I'm thinking in terms of a standardized program like the GIS, geographic information system, or something like that. That requires a standardized format for everyone to input their information. Now, that's kind of contradictory to what you're saying, that you have different software for inputs.

Mr Swant: No. When we're talking about land base, what we're concerned about there is we make a five-year timber management plan or a one-year annual work schedule and we rally up the loggers to go cut it and the ministry decides there's some value that has to be protected, you know, at the last minute.

Mr Hodgson: Oh, I see. Okay.

Mr Swant: We're saying that we can't run a business, we can't do forest management, we can't sustain the forests in an ad hoc manner. It's impossible for us to plan, it's impossible for us to be long-term thinkers if there's no long-term strategy entrenched. If we don't have a land base that gives us that long-term stability, we can't do it. So that's what that means.

Mr Hodgson: Specifically, how do we implement this? If we were to amend this act, what sections would you see us adding, or would you be able to provide us with your recommendation for specific amendments? I

realize you haven't seen the manuals yet.

Mr Swant: I think we could, but there's another initiative that's going on, a timber production policy initiative is going on right now, and as I understand it, it's not complete. It is attempting to define the land base. That's why we're wondering why this act is going ahead when there are so many other initiatives like Carman and the timber production policy out there.

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Mr Multamaki: And I think when you look at the timber production policy initiative, there is a land base that's being used to produce those volume figures, so I guess there's something out there that is determining what at least the starting point is for land base.

Mr Hodgson: Okay, but can you see any damage that would result if we waited until we did some of these things? How long do you envision that would take—next spring, to have the Carman exercise complete?

Mr Multamaki: I think it would be wiser to wait and deal with a number of these issues prior to passing the bill. It's our position that we really should get all our ducks in order, you know, finish up the manuals and deal with some of these initiatives and then bring the bill in supported by that base of information, particularly with respect to the manuals.

When you ask about land base, in theory the land base is identified, at least at the field level, during the timber management planning level, and yet the manual is not complete yet. That may be a section that's worth looking at with respect to the manual.

Mr Bisson: Thank you very much for your presentation. I'd like to come back to the question of fines, because that's one of the issues that's been raised by mostly larger FMA holders and other people in industry. As we know, presently under the Crown Timber Act there are a couple of mechanisms that the minister has in order to get people to comply with the existing act. Part of that is either levying a fine—and I'm not the expert; it seems to me it's five times the crown dues—or you can suspend the licence for an FMA, which is all the way up to the extreme type of thing.

You made a comment in your presentation that what you would rather see is a system of progression, I guess, if you lack a better term, where if there's an offence you don't go from levying a fine to suspending a licence overnight. There's got to be some sort of demonstration as to things having been progressively getting worse.

The comment I'd like to make is that that's what's envisioned in the act. Maybe for your clarification we can make it a little bit clearer, but what is intended is that section 53 deals with the repair order: If there's been a violation of the licence either under section 23 or 24, there's a repair order that's issued. If for some reason the person who holds the licence doesn't want to do it, then we can go to the court and we can say to the judicial system, "We want an enforcement of that order." If for some reason it keeps going on, then there are two levels of fine, and I think this is where we're getting into the bone of contention. There are administrative penalties and there are also offences under the act under section 61. I

think we're seeing them as one and the same, but they're not.

I think what would happen in 99.9% of cases—I don't see an outfit out there, Buchanan, Abitibi, Malette or anybody, ever getting to the point of even getting to section 61. I don't know of any cases in the past where FMA holders have been so offside or off base when it comes to managing their FMA agreements that it would even get to that. But what is intended, and maybe we can clarify that—I guess I'd roll that into the question—is that you have administrative penalties, and that's the five times crown dues up to a maximum of \$15,000, or if, let's say, there's really a flagrant abuse of the licence under section 23 or 24 where a person willingly goes out and causes damage, there is a stiffer penalty.

I guess my question to you is, I agree with you that we have to have a step, but you're saying the step is too high?

Mr Multamaki: I guess originally the way we looked at it was it was confusing. We weren't sure how that step or that determination was going to be made: nowhere that I know of. Our understanding is that we don't see any process in there or anything that tells the person administering the act, "This is when it's appropriate to use this charge." For example, is there anything to stop somebody from going right to the \$1-million charge?

Mr Bisson: First of all, it would have to stand up in court. I guess where the confusion comes in, and I've sat down with the legal branch at the ministry, is that if you look at section 61, it talks about offences, and when we talk about offences we're talking about the judicial system. If you lay a charge under section 61, it would have to stand up before the courts, so if I'm the Minister of Natural Resources and I want to charge you with a \$1-million fine and I'm out to lunch, forget it; it's not going to make it through the courts. So maybe what we need to do is go back and take a look at making that a little bit more clear to you. If that's done, does that meet your—

Mr Multamaki: Yes, that's part of the issue, the confusion. We're confused on how, when and where those two sections are going to be applied. They seem to us to be one and the same.

Mr Bisson: That's not what the intention is.

Mr Multamaki: If that wasn't the intention, then that's fine. It may just be a clarification issue.

The second part of that issue is the restorative aspect. As foresters, we very strongly feel there should be some opportunity to correct the wrong, the biological wrong.

Mr Bisson: Yes, and that's what section 53 is. That's the intent, that—

The Vice-Chair: Mr Bisson.

Mr Bisson: Okay, sorry. Go ahead.

Mr Wood: Thank you very much for the presentation you've brought forward. I'm sure that some of the questions are going to be clarified, as you said in your last comment, by the ministry people. But I'm just curious as to the second-last paragraph. You're saying "the best end use" and I want to get an idea from your organization as to what size of wood you feel should go

through a chipper and what size should go through a sawmill or another operation before it goes through the—should anything above four inches or anything above five inches go through a sawmill and only the small wood go to chippers or for pulp and paper? I just want to get a comment from you on that.

Mr Swant: If you look at the history of sawmilling in this area, it used to be only the big logs that went through the sawmill. Now we take everything down to—Crown Timber Act, the old Crown Timber Act—a four-inch top. What we're aiming at here is that we would like to see all the wood go to a sawmill and the chips go to a pulp mill so that what you are doing is making the most out of every tree that's out there in the forest. That's what we're aiming at.

Mr Wood: The reason I asked that question is because it was on the front page of the Thunder Bay paper yesterday, and I notice that you have it in here, that the big logs are causing brownouts and power failures in one of the chipping operations around the area here. I notice you've covered it here as well.

Mr Miclash: Mr Chair, on a point of information: Before they leave I thought maybe I ought to bring this up. We were talking about a cost-benefit analysis, and I'm just wondering if the parliamentary assistant can tell us where we are in terms of the cost-benefit analysis in terms of Bill 171.

Mr Wood: As far as I know, there is not one being produced. The request was put through. In the two or three years that we went out and talked to the industry—I mean, the feedback we're getting from foresters is that a bill of this type could be a saving to the industry in a lot of cases and that by coming up with long-term contracts with seedling growers, coming up with long-term contracts on other areas, their actual cost could be a lot lower than what it is under the existing legislation right now. I haven't had a chance to get any further feedback from ministry people to say that it's otherwise than that, Frank.

Mr Miclash: Would you not agree that that would be important for us to see before we went into clause-by-clause?

The Vice-Chair: I think, Mr Miclash, you can certainly make the request—

Mr Miclash: I appreciate that. It's been made.

The Vice-Chair: —but this will conclude the presentation by Buchanan Forest Products. Mr Multamaki and Mr Swant, thank you very much for appearing before the committee. As you indicated already, you are going to submit some further comments to the ministry. If you wish to share that with the committee as well, please forward it to the clerk.

1510

WELDWOOD OF CANADA LTD

The Vice-Chair: The next presenter is Weldwood of Canada Ltd.

Mr Rick Ksiezopolski: My name is Rick Ksiezopolski, with Weldwood of Canada Ltd. I'm a woods manager there. I'd like to thank you for providing us with this opportunity to come here. This is an important piece

of legislation and we certainly would like to take this opportunity to provide our input.

What I'd like to do is just introduce our company. Weldwood is a major Canadian manufacturer of forest products, with logging and forestry operations in British Columbia, Alberta and Ontario. In Longlac, Ontario, Weldwood of Canada has operated a plywood plant since 1965 and a waferboard plant since 1974. We've been a secure employer throughout this period, and at this time are the largest employer in the Longlac and Geraldton area. These two mills employ a total of 400 people, of whom 350 are union members and 50 are staff.

In our woods operations, our main contractor employs about 80 persons, of whom 70 are unionized. This operation currently provides approximately a third of our 500,000 cubic metre total requirements, the balance of which is derived from purchases both locally and east to Chapleau and Foleyet and west to Fort Frances and Kenora. We estimate employment derived from this supply at approximately 160 persons.

These benefits do not include the multiplier effects within the various communities throughout northern Ontario within our wood supply area, the most significant of which is the transportation function as it pertains to the Canadian National Railway operation. We move some of our logs and most of our finished products, amounting to approximately 3,000 rail cars per year.

As part of our strategic plan, it became evident that our facility had to diversify our product line in order to remain viable. Our waferboard facility is competitive in good market conditions; however, its ability to compete is diminished when compared to larger existing and proposed facilities. Our plywood facility is competitive in the specialty overlay market, particularly because of our integration to maximize wood fibre to both mills.

In order to maintain our Longlac operation, and hence employment of the 400 persons, we have developed a new product called Longlac Multi Core, which utilizes a waferboard core with aspen cross bands covered with a hardwood veneer overlay to produce a specialty product of superior quality. Detailed marketing analysis has shown much promise in this product. When fully operational, we anticipate additional employment opportunities, as our plywood facility would be operating on a seven-days-per-week basis as opposed to the current five-days-per-week basis.

The reason I gave that background is just to give you a perspective on where our industry stands. Being a poplar user as opposed to some of the spruce and conifer people, I believe we bring something different to the table.

What I'd like to do is just provide some brief general comments on the legislation, and then some specific comments to the specific parts of the act.

In general, we are in support of the general principles of the act. Our company is committed to responsible stewardship of the forest resources, and this act, we believe, is a step in the right direction. However, some minor amendments are required to clarify the intent of the act, which will alleviate some of the uncertainty you have

probably heard and will probably continue to hear.

The forest industry has recently been inundated with various initiatives in which we have had the opportunity for input. It was disappointing that this legislation, which is the most important initiative, provided us with little to no opportunity for this input. I believe much of the uncertainty that you will hear in my presentation and others in the industry could have been avoided if the industry and other groups had been consulted prior to its introduction.

Throughout the proposed legislation, significant powers have been conferred to the minister and his/her designees. This opens the process up to subjective interpretations or at times political pressures which may not be the best for the forests. These powers further contribute to the uneasiness felt by the industry.

Much of this enabling legislation is dependent upon the referenced manuals. We are currently reviewing these draft manuals. However, the minister's ability to revise these manuals does create uncertainty for future requirements.

Now I'd like to discuss some highlights from the respective parts of the legislation.

I believe a definition of "sustainability" is required. At a recent workshop in Toronto, much discussion took place on what is meant by "sustainability." This term is used throughout the legislation and contributes to a great deal of the uncertainty within it. To resolve this matter, we suggest that a committee, as recommended in the class Environmental Assessment Board ruling, be struck to define and establish clear and measurable goals for sustainability.

Other terms such as "forest ecosystem" and "forest resources" used throughout the legislation also need to be clarified in order to improve the effectiveness of the legislation. Clarification is necessary to lessen the opportunities for subjective interpretation and to clearly delineate the industry's management responsibilities. All definitions used throughout this legislation must be clear and concise.

Management planning and information: In subsection 13(2), we support the certification of operations prescriptions by a professional forester. During the past few years, the consistency of forest management decisions has diminished as decisions have been made by persons not having a set standard of expertise. In subsection 13(3), the certification by persons specified by the ministry contradicts the EA board ruling, which solely places the responsibility on professional foresters.

We are also very concerned with the open-endedness of sections 16 through 18 dealing with records, inventories and information. We have not reviewed the Forest Information Manual; however, the minister has the powers to change these requirements even if this manual was acceptable.

We can accept surveys, inventories and the like as they pertain to the timber aspect of the forest. However, surveying to ensure sustainability, which is not even defined, creates too much of a grey area, and hence our concern. In addition, we do not have the resources or

skills necessary to perform these functions, which, when this legislation is passed, will create a liability with respect to penalties.

The forest management agreements under the Crown Timber Act have generally worked well except for the disposition of wood species not utilized by the forest resource licence holder. We fully support the new provisions proposed in this section that allow for the disposition of these species.

In our situation, we are fully dependent on third-party arrangements on FMA or company units. Providing the flexibility to obtain forest resource licences on top of existing licences will allow for better security of our wood supply, and thus maintain and enhance the employment opportunities in our mill and woods operations.

Some may claim that allocating a number of forest licences to the same management unit may create significant problems for forest management and that there needs to be clear control and responsibility for decision-making. We believe this can be overcome through various partnerships and through the use of local citizens' committees.

However, all forest licences must have a secure tenure in order to maintain the viability of the industry. We believe this act should clearly state the terms of the forest licence, which should be similar to the FMA system where it's 20 years, renewable every five years, on an evergreen basis. This will allow for responsible forest stewardship while minimizing the uncertainty.

In section 29, the application of area charges on a forest resource licence should not be on the total area of land under licence. Only the productive forest land should be considered for area charge payment.

Trust funds: We support the trust fund concept, as it allows for the direction of funds to forest renewal activities without having to go through the treasury. The current provincial fiscal situation has already strained this renewal activity.

We are concerned with the residual value stumpage system as proposed, as it will have a tremendous impact on our business. Our facilities are older, with higher costs due to dated technology, physical location and labour intensity. The ongoing Carman exercise should result in the clarification of this part.

Forest resource processing facilities: Clarification is required as to what is meant by "increase the productive capacity of a facility." Productivity improvements are essential to survival of a business. Most capital investments are justified and prioritized on productivity improvements. It is not clear to what level permission is required to allow for these improvements.

Remedies and enforcement: The proposed section is very punitive in consideration of our industry's current track record. We are very concerned when the role of the crown representatives changes to monitoring and policing. This will create uncertainty and it will become a more subjective and judgemental process as compared to the current legislation. Clarification of terms within this section is required due to the legal implications. As a responsible steward of the forest, we would like to be judged by our results, as opposed to being penalized.

I thank you for providing this opportunity to listen to our concerns, and I hope you can incorporate some of these suggestions into the final draft.

1520

Mr Carr: Thank you for your presentation. This may be a difficult one for you to answer. I'm going to put you on the spot a little bit. You mentioned you operated in three provinces: British Columbia, Alberta and Ontario. A lot of companies have come in and talked about the competitive issue of this bill, and we certainly know how the industry over the last little while is facing difficulties. If you were to rate the provinces by ability to compete, how would you rate the three provinces? Could you do that? And where would we fit in with those other two provinces in terms of being competitive? How does Ontario fare?

Mr Ksiezopolski: That's a tough question, Gary.

Mr Carr: I told you it would be up front.

Mr Ksiezopolski: Basically, because we are, again, in all the three provinces, we communicate a lot. We're headquartered in Vancouver also, so we get a lot of the information from over in that neck of the woods.

Basically I think BC has a different situation on its hands where they've been—I better be careful here—overharvesting, or not managing their forests on a sustainable basis, whatever that means. I believe because of past practice, they have come into some problem areas. So the new act that's being proposed there and the code, I think, the forest code—I don't know the exact terminology—is quite strict. In terms of wood costs right now over there, pulp mills are being shut down as we speak because there are no chips available. I know one of our operations had to take about a three-week shutdown because of lack of availability of wood.

Jumping over to Alberta, they are new in the forest management field—"new" is a relative term—because oil was driving their economy for a long time. Within, say, the last 20 years, just to pick a number, not to be exact, they have had some opportunities to view different types of forest management scenarios. Their FMA or forest management system is a lot different than ours. However, they've just gone to a residual value stumpage.

So from the competitiveness point of view, certainly British Columbia, because of probably their specific situation, would be number one. Ontario and Alberta would almost be a tie. I can't split the difference between the two. I just know based on wood costs right now.

Mr Carr: One last question: You mentioned you were at the recent workshop in Toronto when discussions took place on what is meant by "sustainability." I imagine that was quite a discussion. We've had some big concerns come forward from various people. Having sat in on those workshops, do you think it's possible for us to get a definition that can keep everybody happy?

Mr Ksiezopolski: No. You can't get one. You get different characteristics that are measurable, but how would you find one to satisfy everybody's requirements? Just looking around this table here, I don't think we could find one if we had to sit down and try.

Mr Hodgson: I want to follow up on page 7 of your

report. You've got, "The forest management agreements under the Crown Timber Act have generally worked well except for the disposition of wood species not utilized by the forest resource licence holder."

Two questions come to mind there. Are you suggesting that third-party agreements or other types of arrangements should have tenure in terms of species not utilized by the original person, or are you getting to something like the best end use question?

Mr Ksiezopolski: No matter what, the forest should be there for the best end use, however that's defined. When I was out in Alberta, and you see where both parties are licensed species on the same unit and you watch how that's managed, it works quite well. Proposing a different tenure system—what makes it difficult when you are, say, an aspen user and the forest sometimes is managed for conifer, what happens is that aspen is the wheat of the species per se and it regenerates naturally and sometimes some prescriptions are given where we could probably do a lot better with it, although it does come back by itself and it's quite vigorous, and certainly in that species that's sustainable. But I believe that by allowing third-party licences we could introduce some different management techniques, from the point of view of managing the aspen resource, to allow us to get a product that's even quicker than it has been in the past.

Mr Hodgson: Should they be given tenure?

Mr Ksiezopolski: Yes.

Mr Bisson: I appreciate your presentation. I thought it was well thought out and an honest approach to how you see it. I question, though, one thing, and that's the question of multiple licences. Depending what side of the fence you find yourself on when it comes to multiple licences, obviously we're going to deal with it in a different way.

If you go into a multiple licence agreement with an existing FMA holder today or a section 23 in the future, how would you plan for who pays the area charges and how would you plan for who does the forest management plan and who carries it out? How would you do it?

Mr Ksiezopolski: Basically, the area charges are pretty straightforward. Whatever systems you have, you have mapping and you can sit there and say, well, poplar is this per cent or this much area, and conifer or spruce or whatever the species are, are so much, and it's just a matter of how you'd do the final billing. I think that's a straightforward process.

What was the second question, Gilles? Sorry, I lost it.

Mr Bisson: The second question is in regard to the actual forest management plan.

Mr Ksiezopolski: Basically, that's where I suggest a partnership type arrangement where you look at companies, if the forest management planning—again, I haven't reviewed that manual fully, but I believe it's become almost a five-year exercise by the time this is finished where it's continuous. And it's just a matter of dedicating resources, a forester, working together on computer systems to ensure—it's just providing those resources as a team or however else.

Mr Bisson: So you see it as you'd have to get into a

partnership with the existing licence holder—

Mr Ksiezopolski: That's right.

Mr Bisson: —and between the two of you haggle it out. Do I have time for a quick question?

Mr Ksiezopolski: It doesn't have to be a separate corporation or anything if you do it within the existing structure.

Mr Bisson: Let's say that the minister—I hate to use the word “deems” but I can't think of another one offhand. But the minister assesses through his field staff that a particular licence holder has more wood than is necessary for his or her operation, and therefore there might be some wood available to go to another operation such as yours or another. Would you prefer the competitive bid process or would you prefer that the minister weighs each application for excess wood and makes a decision based on the socioeconomic, biological etc, etc, criteria?

Mr Ksiezopolski: I would choose the weighing of each option, because in each case there's stories—like, one time it might be good as a competitive bid, the other time it could be good because the minister has to make a decision.

I look at some situations I'm facing where the land base has been reduced to such a level that it could jeopardize some employment opportunities for my woods people. What do I do? I hope that could be taken into account by the minister, as opposed to—I've got to maintain employment as an objective.

Mr Bisson: Does the parliamentary assistant have a question? No?

On the question of sustainability, I'll tip my hat. My mind is that I'm a little bit leery of defining “sustainability” in the act, and I'd like to hear your views on it. I feel that if we try to define it too closely in the act, it might just box us all into a situation we may not want to be in, because the technology changes and all of those other things that we understand. Do you favour going into the regulations to define “sustainability”? I know that's not what some groups would want.

Mr Ksiezopolski: It comes down, sustainability—as I say, just working in that one workshop, it was quite interesting because you can't find a clear definition. Everybody has a different perspective. I wouldn't be surprised that somebody could read those manuals and say, “Oh, they're still managing for timber only.” Somebody could look at them and say, “Oh, this is a balancing.”

I suppose you should try making it, again, as clear, concise and measurable as possible. Maybe through some measurement characteristics within the manuals it might be able to help, but you'll never—would I want it in regulations?

1530

Mr Bisson: In the manuals would probably be the better—

Mr Ksiezopolski: Manuals—it has to be there, at least. It depends. If, for example, forest companies have to go and measure songbirds or moose populations or fish, where's the balance? That's the uncertainty. If you

listen to most industry people, they're uncertain as to what the direction is when you talk forest ecosystems and things like that.

Mr Bisson: If you find a fish, point him in my direction, please. I haven't been too lucky lately.

Mr Wood: Just a brief comment or question: I notice in your second-last paragraph you have a sentence saying you'd like to be judged on results as opposed to being penalized. Comparing the existing legislation that is there right now, the Crown Timber Act, the penalties are there where an operation can be completely shut down versus the penalties that could be assessed, up to \$1 million, for refusing a direct order to halt operations until things can be worked out. How would you compare that existing legislation now to what we have in Bill 171?

Mr Ksiezopolski: What seems to happen—and I hear the question. If you look, the current Crown Timber Act has its codes—five times crown dues and so on and so forth—and those are generally acceptable. I think they work well, because when the situation does happen it's more often by accident than anything else. Ourselves, we're going to be entering into a training program for our operators to start working with them to—I won't say start thinking about but to start understanding what we're doing out there, because I believe we haven't done that good of a job from that point of view.

With respect to the comparison, it's the grey area that causes me a lot of trouble, where it becomes an interpretation. We could sit here and the legislation's made, but it's the person in the field who has to do the actual fining or draw the lines where, “Oh, this is a penalty, this isn't a penalty.” That's what causes me a lot of the concern, the interpretation of the act, what certain things mean.

Mr Wood: There's no doubt it's new legislation. Yes, that's what I think.

Mr Ramsay: I very much appreciate your presentation and I'd like to explore, like others have, in a little more detail how you think we could facilitate the different companies cutting in the bush.

You've said that basically you derive most of your fibre from third-party licences. As you know, sometimes there's a bit of conflict in that. We've heard some different ideas in the past week about how to accommodate that. Number 1, we've seen a very good example up in Hearst of a cooperative made up of maybe seven different companies, I believe, that did work together with their own professional forester and in conjunction with the MNR and basically planned their cuts. That seems to work.

Other companies have suggested that when you're to have third-party licences, instead of doing it by species and everybody running over the same roads, going to chase the poplar or the conifer from end to end in the management unit, maybe do it by working group and basically trade off the cut wood in the field.

I wanted to get a sense from you what you thought would be the way it should be done, or should it just be flexible in various regions of the province, depending on the circumstances?

Mr Ksiezopolski: Actually, all those work very well

in the situations. The way I would view it is, each region in the province would have to have a specific type of system. I've got to go back up to the northeast, south of Lake Abitibi. I believe there's a specific unit there that Abitibi-Price has. There's a pure poplar area south of the lake that is almost a standalone type of situation. Yes, there are some conifers. That's specific to that area.

I think the combination of all those, what's best for the unit that you're dealing with, is probably the best solution. You leave it up to the MNR and the companies involved to sit down and discuss what's the best. As long as everybody has an open mind going in, usually something can come out that's pretty good.

Mr Ramsay: Of course, there are two things at play here. It's not just what's best for the unit, but it's also what's best for the communities and the mills that support those communities. You've got to somehow coordinate that so you get best end use—

Mr Ksiezopolski: That's correct.

Mr Ramsay: —a phrase that's bandied about a lot, but I think all of us would believe it.

Mr Ksiezopolski: That's right.

Mr Ramsay: You just mentioned Alberta. It seemed you thought Alberta managed this very well, the third-party licenses. Can you expand a little bit on how they do it?

Mr Ksiezopolski: Because of the fire origin of the species, poplar and the conifer, they usually run in fairly pure stands, so what will happen is, they will hopscotch, jump over to the pure poplar stands, they'll just go after the working group type of system, and it works well, although they're still in their infancy. I'd like to see, when a wood supply crunch comes down, how that would affect that type of system. What would happen to the different users? How would they view going after and making a row past the conifer stand from an economic point of view? You'd want to see how the system works first longer-term. We've been around here for a long time, and British Columbia's been through a few gyrations, but I'd like to see that work out a little bit more. But I believe if you leave it up to the companies that are involved, hopefully, if they go in with good faith, they should be able to come out with something that's acceptable to the people of Ontario.

Mr Brown: I just have one quick but probably complicated question. The ministry and the government seem to indicate that the definition of "sustainability" is what the bill is; in other words, if you read the manuals, read the regs, that's sustainability. It seems we're having a lot of trouble with the definition. Using your definition, the one you like, is that what we're going to get with this bill? I told you it was an easy question.

Mr Ksiezopolski: The only problem that will result at the end of this bill is what other people perceive; it comes down again to a perception of sustainability. Sitting in Toronto, I use my family as an example. We grew up there. Sitting there, they perceive sustainability differently than I perceive sustainability, because we look at the communities involved, we look at some of the problems when some of that infrastructure's not there.

It is probably close. I mean, the Crown Timber Act was also close. It needed some modification or updating, and for one attempt it's a pretty good attempt, but it does need clarification because if, for example, I've got to go back to measuring of the songbirds or of the moose, is that within the forest management's company or is it for somebody else's benefit? How do we balance that type of thing? It's not a clear answer. We could go into some textbooks and talk about it, I suppose, but that's difficult.

1540

FRIENDS OF THE FOREST

The Acting Chair (Mr Frank Miclash): Our next group is the Friends of the Forest. I believe they are here. Welcome to the committee this afternoon. As you have been watching, the presenters have half an hour. We'd appreciate some time towards the end of that half-hour for questions. If you could introduce yourself and the people with you, please.

Ms Lucie Lavoie: Okay. My name is Lucie Lavoie. I'm on the steering committee of Friends of the Forest. To my immediate left is Keith Galloway. He's also on the steering committee. Gordon Whiteley is not only a member of the steering committee of Friends of the Forest but also the president and representative of a small specialty forest products company. He'll be giving some insights into some of the concerns facing small operators trying to make a living in Ontario's crown forests.

I have prepared a written brief on behalf of Friends of the Forest. I have given a copy to the clerk and I will be just presenting it.

Basically, what we have done is analyse Bill 171. Our first major problem with it is the fact that—and this is something that's been discussed all day—it does not provide a definition of "sustainability." We feel that this is imperative in an act that calls itself an act to provide for the sustainability of crown forests in Ontario.

Another question that has come quite a bit, asked by Mr Brown, is whether or not the sum total of the act and the manuals, in essence, defines "sustainability" or explains what sustainability is in the forest. My concern is that section 66 does not oblige the Forest Management Planning Manual to define sustainability anywhere. Even if the present Forest Management Planning Manual does define it, it doesn't necessarily have to stay that way, according to the terms of this act.

Some people have expressed concerns that it will be impossible to come up with a consensus on the definition of "sustainability". If that's the case, then why name this act to provide for the sustainability of crown forests? Explain exactly what it is. If we can't explain what sustainability is, then why put it in the name of the act? Therefore, I would say that if you want to call this act, and if you want this act to provide for, the sustainability of crown forests in Ontario, then you had better come up with a good definition.

I would suggest that definition has already been suggested by the forest policy framework panel. That definition exists, it's been approved by cabinet, it's called Principles for Sustaining Forests. I suggest that these should be included in the "purposes" section of the act.

Part II, "Management Planning and Information": Again, there's been some discussion about this. Under section 13(1), which requires forest operation prescriptions, we would suggest that they always be required. The reason for that is that we want to ensure that the effects of logging on the future forests are considered before the area is harvested. If you think about what will happen to the forest before you cut it, the chances of effective forest renewal are much greater. We would suggest that definitely stay and actually be made a requirement of harvesting in Ontario's forests.

Section 17(1) requires the holder of a forest licence to conduct inventories and surveys in accordance with the Forest Information Manual. We, like everyone else, like a large number of people who have spoken here, still have not gotten the Forest Information Manual—we still haven't gotten most of the manuals that accompany this—which certainly hampers our analysis of this bill.

However, given what we have, I have a concern that the holders of forest licences conduct inventories and surveys, and that concern is that it's kind of like asking a fox to survey the henhouse. The industry has a vested interest in a certain outcome. I think the responsibility for inventories and surveys should rest with the government, or somehow with a third party or a very stringent sort of audit. I am concerned that the fiscal situation within the ministry would not allow for that.

As stated, the crown forest report should be tabled in the Legislature every year, not just from time to time; we believe it should be every year. A report on the state of Canada's forests comes out every year; therefore, why couldn't we have a state of Ontario's forests report? I think a state of Ontario's forests report would tell the people of Ontario what exactly is happening to the forests. We have a right to information that helps us to assess the condition of the forests. I think that would be a very positive thing to do and one that would dovetail very nicely with Canada's state of the forests report.

Under part III, "Forest Resource Licences," again there's been some discussion that section 21(2) states that forest resource licences shall be granted with a competitive process. The thing that occurs to me is that most of the forests have already been allocated in Ontario, a large portion of the productive forests has already been allocated in Ontario and not under a competitive process. These are already allocated under FMAs which will be transferred under section 23. Therefore, it seems that the title of this act says something that is not reflected within the body of this act, very much in that same way that this section says something, that we should strive to allocate timber on a competitive process, where in reality the situation is that it has not been done.

Sustainable forest licences may require the licensee to carry out renewal and maintenance of the forest, according to subsection 23(1), and silvicultural costs would be reimbursed from a trust fund to which the holders of forest resource licenses contribute.

I understand this is a very key portion of this act. We certainly support the transfer of fiscal, financial responsibility for forest renewal to the holders of forest licences. They profit from the harvesting of forests and therefore

they should renew the forests for the future. I believe that's inherent in their responsibility.

However, the thing that concerns me which I don't see addressed in this act is that at the same time we're transferring responsibility for regeneration into the hands of the licensee, we are also reducing the amount of staff available in the ministry to actually monitor and audit what is happening in the forest. I find that a real concern. Will the government have adequate resources to monitor this transfer of responsibility? I think this is a very crucial point. If there aren't enough resources to monitor this transfer, then we are basically jeopardizing the future of the crown forest.

According to section 26(1), "the amount of forest resources harvested shall not exceed the amount described as available for harvesting in the...forest management plan." We believe that should be amended to read, "The amount of forest resources harvested should not exceed the amount which will ensure the sustainability of the forest ecosystem," if indeed this is an act to provide for the sustainability of Ontario's forests. Somehow it seems that the title of this act is somewhat divorced from the substance of the act.

All trees which are harvested must be manufactured in Canada, except those used in an unmanufactured state and exemptions granted by the minister under section 27(3). We would like a clarification of what those exemptions will be, because our jobs depend on processing of forests. The more chips are exported, the fewer jobs we have here.

An amendment to a forest resource licence under section 31(1) should allow for withdrawals of forest land for uses other than logging and should also allow for a withdrawal of forest land for small operators. We need to diversify the forest industry. The present amendments are to be consistent with forest management plans. These are essentially timber harvesting plans. They don't really reflect other uses for the land.

Part V, "Trust Funds": Trust funds to reimburse forest renewal costs are a really good idea. Again, it is a way of finding some funds to be able to renew crown management units. However, I think the act should explicitly state what matters other than silvicultural expenses will be reimbursed by the trust fund. That's a very open kind of thing.

In addition, I think the trust should report annually not only to the minister and to the treasury board but to the public, because it is the public that basically owns the forest of Ontario. They have the right to know what is happening with the money in the trust funds. I don't think that would be an additional expense.

Part VII, "Remedies and Enforcement": This gave us a bit of a problem. As the act presently stands, it is "the opinion of the minister" that decides whether forest operations are impairing the sustainability of the crown forest. It is also the opinion of the minister that decides whether there is damage to water, soil, plant life or habitat for animal life in a crown forest.

We would like to have quantifiable, measurable definitions of those terms. We think that the opinion of

the minister is just too open to interpretation, and if this has the force of law, we believe that what constitutes impairment of the sustainability of the crown forest and what constitutes damage to what water, plants and soil should be explicitly defined. After all, if you think about it, if cutting a tree doesn't damage plant life—I mean, obviously cutting a tree damages plant life, but that's certainly not what you mean by this section. Somehow that's just got to be clarified.

1550

Something else that has come up numerous times is the levels of fines for infractions. As has been shown, there's the administrative level as well as whatever the other one is. It's not the administrative fines, but the court offences in section 61. We agree with what many people have said before, that there needs to be some sort of an explanation under which circumstances each fine will apply. We are concerned probably with a different perspective, but we also want to know when which fine will apply, when the lower of the fines will apply. Will companies always be charged with the lower of the penalties? What will constitute an infraction that will render them liable for the higher offence? I think that's an important thing to let people know because it will perhaps give people more confidence that this is a sustainable forest act.

That's all I have to say. Now Gordon will give a brief outline of some of the concerns that affect small operators in this area.

Mr Gordon Whiteley: Thank you very much. I have a variety of hats that I wear, but I am representing the interests of a small specialty products processing facility at this time.

I think what is really important to know, what seems to be missing here is what really exists in the forest today, and it isn't much. All of this legislation and all of these annual allowable cut figures and everything are all based on fibre production, which has nothing to do with specialty products production at all. You can mould fibre, as they do now, with the short balsam and the underaged spruce, but you cannot make 24-foot 10-by-10s or timbers or beams out of these small fibre trees. They make fine paper, but that's all. Their use is not only limited just to paper, but it makes it difficult for all sawmills and any kind of effort to diversify the forest whatsoever.

All of the efforts and initiatives that have been proposed for the last 15 or 20 years, before the Royal Commission on the Northern Environment, become non-valid because we are no longer trying to maintain mature forest. We're trying to maintain only fibre, which is of interest to only a small number of people. It certainly doesn't provide any diversification whatsoever. Hopefully, this will change and can be clarified in the sustainability portion of what we mean by sustaining our forest. What we mean is a complete, whole forest and not just fibre.

In reading through the bill, and of concern to me under diversification and everything and my own small facility is the ability to maintain this under the new system. Existing in this legislation there are a couple of options, but there are no options that would clearly allow for not

only the long-term operations of a small processing facility maintaining its own wood supply, but there are no options in here for the creation of any new facilities, because there are no options in here for tenure for any small facilities, and without tenure you are reliant on the interests of someone, for example, who may be interested in producing chips, to produce specialty products, which is not in their interest whatsoever. In fact, within 15 minutes' drive of Thunder Bay you can clearly see that these interests have not been maintained, nor will they. It's not in their interest.

Tenure would, however, do that, would allow the financing and the capitalization of a variety of projects. Not that there is very much there, but there are a few pockets here and there in a few places where there are some trees growing, stands growing that could be used on a long-term basis by small local facilities generating employment for ever, if they're allowed. This does not allow that.

Under the present system, one must operate on a third-party agreement with a facility that may or may not be here tomorrow, as recently we have seen with takeovers, stock purchases and a variety of other companies coming in that do not necessarily live up to the agreements that were in place with the company previously.

What do you do with your small facility when the new company comes to town and says, "We don't care"? A small company can't go through the courts with a big one. This brings us into the mediation section of the bill, which is a very responsible and important section, I think, and an area where the government could focus some attention and in fact help to preserve the existence of the diversified industry.

The mediation area, however, deals only with resolution of obtaining third-party agreements. It does not deal with companies having to live up to their previous obligations. Obviously, with no tenure there is no bargaining position to deal with these people at all, so one would be totally reliant on a mediator for their very existence at all. This of course brings a lot of problems to bankers and private investors in the industry, as pointed out in an article in *Canadian Business* last year, where they recommended if you don't have control of your own resources, you'd better consider leaving town.

Now you've got diversity. I have a really difficult time with seeing how diversity can be maintained under a clear-cut. We have these new mills being opened that are going to process hardwood chips, for example. Does that mean that these areas where these hardwood trees are to be harvested are mature birch areas, or are these licences to be created in order to further rationalize the clear-cut process in order that they go around afterwards and clean up what's left? Obviously it's the latter, because the mature areas are very limited and no large facility could be created in this area to process, for example, birch, because the mature birch stands are very limited.

So what is being created here is in fact a cheap chipping facility. We've lost the high-paying jobs in the paper mills where they are producing chips. We now have sawmills which make chips and pretend to make lumber, making chips at a third of the wages with no

benefits, and what have we really gained? Have we really gained anything? It makes it kind of difficult to say.

The other section in here deals with licensing in terms of renewal and length of licensing. You have in here a five-year plan with a one-year addition afterwards. I believe it's section 73(2). I'm wondering how this particular section is going to apply to a small company, for example, that wants to maintain, say, a white pine stand on a shelterwood basis, say similar to the one in Michigan or several others in Ontario where they in fact have more trees there now than they ever had, where they only cut the overmature and mature trees and all the young stuff are generated and they grow up in shelterwood and in fact it's the best process for growing white pine.

But on a five-year licence, how can one operate on a long-term basis? How can one put in the roads, the culverts, the extra effort to try and go around these trees that are in their optimum growth rate, leave them there and take only the mature ones? These people, probably, in order to be able to operate that are going to have to have some kind of tenure. It seems there are a lot of possibilities available but without any clear, real definition for this other, what I consider to be important, part of the industry.

It's very important to small communities, as I see it, because smaller operations can do this close to home, kind of thing. This seems to be geared to very, very large operations, dealing with volumes and computer figures, not necessarily having any reality on the ground at all. In Sweden they withdraw some of these areas from the licences and these are maintained and operated periodically, different times, over there, over the road.

For example, they don't have to rebuild that road all the time because they're not operating once there and then coming back 100 years from now. They're going back and forth periodically, continually, so once the road's there, it's used. But under this current system of major clear-cuts, it's cut, it's maybe regenerated, maybe aerial-seeded, then it's left and the road grows in and you have to rebuild it again later on, which becomes very expensive in the long term.

There are, I believe, some benefits and some ways that things could be done to enhance the act, and maybe some of the manuals if they are produced and people are more involved in the production of them, this could become clear. The tenure thing though becomes very, very important in terms of diversification. That is for sure. Thank you very much.

1600

Mr Wood: Thank you very much for your presentation. I just want to cover some of the areas. You're saying there should be accountability as to audit and the volumes out there. The environmental assessment, I understand, requires that the state of the forestry report be required every five years as well as annual reporting requirements under the EA.

We never appealed any of the decisions of the Environmental Assessment Board as they were brought down, so the government is committed to that. But some of that

has been brought into Bill 171 and also the manuals and regulations to make sure that it complies with it.

I found it interesting the comment that you made as far as prescription, looking at a stand of forest out there, and the prescription is that if you're going to cut a hectare of wood, you should replant a hectare of wood and know how it's going to be reforested. At one time it used to be you harvested a large number of hectares of wood out there, but then you went back and were accountable for the amount of seedlings you planted, and there are four or five different ways of regenerating a forest.

I found that interesting, the comment when you were saying that you believe that a prescription beforehand will guarantee a future forest if it's followed through.

Those are the two areas that I wanted to comment on, and if you have any other comments you want to throw back at me. I guess, if there is any uneasiness about whether the forest reports are brought in and whether the annual reports are acceptable, I mean, there's also people that can revert to the Provincial Auditor to take a look at those audit reports because he's at arm's length from the government as well. I'll leave it at that. I know Gilles Bisson wants a question, but if you want to comment on that, feel free.

Ms Lavoie: That's fine. You were basically saying, if I understood you correctly, that my comment that free operational descriptions be mandatory was a good one. Is that what you were saying, or it was an interesting one?

Mr Wood: Yes.

Ms Lavoie: Okay, thank you.

Mr Bisson: Just a direction from the Chair, how much time is there? A couple of minutes?

The Vice-Chair: A couple of minutes.

Mr Bisson: All right, let's just get to it. The question in regard to the multiple licences that you raised in your presentation, if I understood you correctly, what you're asking us to do is to make available additional wood on existing licences. Is that what you were asking for in your presentation?

Mr Whiteley: What I'm suggesting is that the areas of specialty products, which are primarily woods that are not used by the current licence holders—for example, if you have a pure white pine stand, which is a controversial subject in the province of Ontario, I believe that this should be removed from that licence.

Mr Bisson: Part of what we're trying to deal with in the bill by multiple licences is to try to allow that to happen in some way. So what you're saying is it should be automatic. Is that what you're telling me here?

Mr Whiteley: Well, there would be no point in having a company interested in maintaining a species that is not interested in that species. Your best effort would be put forward by a company who was interested in that species over the long term.

Mr Bisson: Just for clarification for yourself, on the question of tenure presently in the forest in the present act, the question of the evergreen clause is found in the actual FMA agreement that you sign, and that's why you don't see it in the legislation. Under section 23, when you

sign the licence with the crown, that same type of arrangement that this is arranged for would be in there. It's neither in the old legislation nor in the new because you find it in the actual agreement. You were talking about tenure, that you can't invest unless you have tenure.

Mr Whiteley: Yes.

Mr Bisson: That's found within the agreement that you sign with the crown.

Mr Whiteley: No, the only people that have tenure now are the large FMA holders.

Mr Bisson: I thought that's what you were referring to.

Mr Whiteley: Yes, I'm referring to the giving of tenure to other people who are more interested in looking after a particular area. That way, it may not be just a particular species. It may be a sensitive area, for example, along a river or a lake or a cottage where it would not be suitable to have 100 workers with big machines running 24 hours a day, seven days a week, but may be suitable to do a small mom-and-pop operation with a skidder and a long cable and a chainsaw doing some selection work.

Mr Miclash: I'd like to start by saying that I'm intrigued by your comments about sustainability and the use of the word in the title of the act and I'm sure we'll want to review the comments that you made in terms of that.

My question has to do with section 12 of the bill, and section 12 refers to local citizens' committees. We've heard a good amount from various groups about what they would like to see in terms of the makeup of those committees and the mandate of the committees as well. Do you have any comments in terms of what you would like to see when it comes to local citizens' committees?

Ms Lavoie: One of the major problems with local citizens' committees is that they play an advisory role only. You can spend a good part of your life working through to understand what the mandate of this committee is to work through all of the documents that I'm sure you have stacked up on your own desk. You do this on a voluntary basis. You don't get paid for it. You take time out of your life, out of your family, to try to have valuable input. You work really hard and at the end of it all someone says, "Thank you for your advice," and then fini, it's on to something else.

That's been one of the major problems with advisory committees, the fact that they are limited to an advisory role. Therefore, it doesn't give citizens much hope in the democratic process.

Mr Miclash: You know, the offer is there now: "On behalf of the minister may establish." Could you maybe give some input as to what you would like to see in terms of actual makeup of such an advisory committee?

Ms Lavoie: This is a very difficult subject simply because somehow there has to be accountability. The people who are representing, who are sitting on an advisory board representing a constituency must be accountable to that constituency and it must be a breathing, living constituency, and that can be a problem. If these citizens' committees move beyond playing just an

advisory role, there is going to be definitely a lot of jockeying for positions around the table commensurate with the power that this particular committee has.

I'm not sure what to suggest because I'd have to think about it, because it's not something that I've actually sat down and thought about. It is a very, very important question, I agree with you, and I can't give you an answer without thinking about it further.

Mr Hodgson: Thank you. I enjoyed your presentation. The citizens' committees, the regulations for those and the criteria for establishing the mandate they'll have haven't been fully developed yet, but the environmental assessment is sketching out some format we should follow. The trust accounts that you mentioned were created in Bill 160; they're not actually created under this act. Given that, the language you used at the start when you paraphrased Mr Brown's question about, "Do the manuals and the regulations equal sustainability?"—I believe your answer was no to that?

Ms Lavoie: I don't think it does.

Mr Hodgson: You don't think it does.

Ms Lavoie: I think it needs to be explicitly stated.

Mr Hodgson: Were you suggesting that this might be more of a—the reason for the word, you wondered why, but throughout your talk I got the impression that you thought it was more political in nature: You're going to tell one group that the ecosystem is totally sustainable; to another group you're going to say that their jobs are sustainable; to another group you're going to say the wildlife's sustainable, and you don't have to be accountable. There's no measurement or base to say, "Is this true or is this not true?"

Ms Lavoie: In a sense what you're saying is right. I believe that if the title of the act is "An Act to provide for the sustainability of Crown Forests in Ontario," then I believe that sustainability has to be explicitly defined, not defined in this other circuitous route through the use of the manuals because that route does not have the force of law in the same way that having it explicitly defined in the legislation does.

I believe that a definition already exists through their policy at the fourth policy framework panel. This was accepted by cabinet because it's something that caused the government an awful lot of money, and I don't understand why it's not included in this act, because they actually have a principle for sustaining forests. We spent a whole bunch of money, you know, trying to drag those out of local stakeholder groups. Why isn't it stated explicitly in the act if that's what the act claims to be?

Mr Hodgson: I've heard it suggested that if we're going to sell our products abroad with the marketing that all the forest products are coming from Ontario from sustainable forest and if it doesn't live up to its billing, that could do us long-term damage. Do you see any impacts if this act is hailed as sustainable in terms of a forest ecosystem approach and it doesn't live up to its billing? Do you see any repercussions in terms of government credibility or government initiatives in the future?

Ms Lavoie: Well, if you say you're doing something, if it's rhetoric and it's not reality, people find out that it's

rhetoric and not reality and then they get angry, because they feel like they've been hoodwinked.

Mr Whiteley: That's a real concern today, the credibility of Canada and its forest products industry as a whole. It is a real concern to me and I am really nervous when I see some of the people who are trying to become involved in the supposed creation of a green stamp that does mean sustainability, when you know that their past practices are going to destroy the whole effort completely. There has to be some real credibility there for sure, and unfortunately even the federal government has recognized that credibility among most of the major players in Canada is gone. Who's going to give it to us? How much effort should we put into putting on demonstration of boreal forest by multinationals when they have no credibility anyway? Maybe they should be helping somebody else do it.

The Vice-Chair: Thank you very much. We certainly appreciate your appearance before the committee. We will have the rest of this week still here in Thunder Bay and Fort Frances, next week hearings in Toronto, followed by clause-by-clause in the middle of September, so if you have any further comments that you wish to send off regarding the manuals and so on, please communicate it to the clerk.

The final presenter, as far as I know, is not here, but I will ask for Atikokan Sportsman Conservation Club. Is there anybody here to represent this organization? This will be the last item of business unless somebody else has anything for the good of the committee, as they say.

This committee stands adjourned until tomorrow morning bright and early at 9 o'clock.

The committee adjourned at 1615.

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Bisson, Gilles (Cochrane South/-Sud ND) for Mr Wessinger

Carr, Gary (Oakville South/-Sud PC) for Mr Arnott

Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson

MacKinnon, Ellen (Lambton ND) for Mr White

Miclash, Frank (Kenora L) for Mr Sorbara

Ramsay, David (Timiskaming L) for Mr Grandmaître

Wilson, Gary, (Kingston and The Islands/Kingston et Les Îles ND) for Mr Mills

Wood, Len (Cochrane North/-Nord ND) for Mr Morrow

Also taking part / Autres participants et participantes:

Wood, Len, parliamentary assistant to Minister of Natural Resources

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Yeager, Lewis, research officer, Legislative Research Service

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Standing committee on
general government

Crown Forest
Sustainability Act, 1994

Comité permanent des
affaires gouvernementales

Loi de 1994 sur la durabilité
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Tuesday 23 August 1994

Mardi 23 août 1994

The committee met at 1001 in the Valhalla Inn, Thunder Bay.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Vice-Chair (Mr Hans Daigeler): Please take your seats. The standing committee on general government is now in session and will continue its public hearings on Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario.

IWA-CANADA, LOCAL 2693

The Vice-Chair: The first presenter this morning is the IWA-Canada, Local 2693. According to the list that I have here, it's Mr McIntyre and Mr Miron. Would you please have a seat and introduce yourselves. You will have half an hour, and if you'd please leave some time for questions and answers, it would be appreciated. Just give the copy to the clerk; he'll distribute it.

Mr Fred Miron: I appreciate the opportunity to appear before the committee. Half an hour sounds like a lot of time compared to sometimes at the CBC: "Tell us all you know about forestry and make it interesting. You have two minutes."

The Vice-Chair: Please mention your name and the name of your group. We want to help Hansard.

Mr Miron: Okay. I'm Fred Miron and I'm the eastern national vice-president for IWA-Canada, the industry that represents the majority of wood workers in different provinces. I grew up in a small forestry and mining community—my father was a timber contractor—so I've had the opportunity of observing forestry operations and forestry from a very young age. I've also worked in the industry, and for the last 29 years I have represented workers in the industry.

Beside me is Wilf McIntyre. Wilf is president of Local 2693, the Thunder Bay local. Wilf has worked in the industry all of his working life, and for the last 10 years has represented workers in the industry.

In introduction, IWA-Canada is a national union that represents workers in six provinces. The majority work in forestry and forestry-related industries, from the standing tree to the finished product.

As a major union in the forest industries, we recognize our social responsibility to practise and support sustainable forestry. We take considerable pride in the fact that our forest policy begins with the words:

"IWA-Canada commits itself to the establishment and maintenance of fully sustainable forestry. Forestry operations must leave to future generations of Canadians a rich endowment of fish and wildlife, soils capable of supporting varied ecosystems and forests managed so as to provide many more jobs and the wide range of the forest recreations that Canadians value if we are to achieve sustainable development."

We believe Bill 171 can accomplish this, and we commend and support the minister in this initiative. However, we have some concerns which we wish to bring to the attention of the committee.

This legislation calls for the involvement and participation of the public. In order to receive broad public involvement and participation, we believe it must be written in language that working people understand.

We recommend that the ministry consider making this act available in the form of a guide written in language the public can readily understand. I've seen copies of the manuals and the prescriptions, and they're about six inches high and 10½ pounds. The act itself, of course, is written in legal language, and if we really want public participation, we have to understand what we're talking about, not only certain interests. Make it available so that they can see it. Now, for legal recourse, of course, you can go right to the act, but we highly recommend it.

On page 3, subsection 2(1), the definition of "forest operations" is not clear. It seems to imply that the act will only apply to the forest industry. We recommend that this definition be redrafted to include all those enterprises with direct economic interests in forest resources and crown lands. We're talking of mining, tourism and the other economic interests that are out there in the forest.

On page 4, 2(1), the definition of "forest processing facility" is all-encompassing. It obviously includes mobile chippers, and could be considered to include even short wood harvesters.

On page 15, 50, under part VI, there are specific requirements for a licence for each facility. On page 27, 67(1)21, under part VIII, it states that regulations can impose conditions as to location, mechanical efficiency and operating methods of a forest processing facility. While the general intent is understood, it appears that these could be restrictive and negative for both labour

and industry when applied to mobile equipment in woods operations. We agree that mobile equipment should be licensed, but as a separate category. We recommend redrafting to separate mobile and stationary.

On page 5, subsection 7(3), plan to be certified by a professional forester, and page 6, 13(2), a forest operations prescription be certified by a professional forester: We recommend redrafting to provide for the plan and/or prescriptions to be prepared and certified by a registered professional forester. We want to ensure that it's prepared. He or she may have help, but it's done under their supervision and not just a rubber-stamped kind of a thing. We want to ensure that this isn't done; that they actually have the responsibility.

On page 6, 12, "The minister may establish local citizens' committees": We believe the creation of local citizens' committees in communities that depend on forests for their economic stability is a key piece of this legislation and will certainly help resolve land use conflicts. We recommend changing "may" to "shall." We believe it's essential that we take advantage of the local knowledge and experience and the concept of managing our forests from the bottom up instead of from the top down.

Part III, forest resource licences, page 9, subsection 26(2): This section is capable of various interpretations. In effect, it states that a minister could issue any number of one-year licences for 25 hectares each that would be in excess of the planned sustainable amount. We recommend that this section be deleted.

Page 11, subsection 35(2) and page 26, 67(1)13: These two sections deal with the resolution of disputes in accordance with procedures to be specified in the regulations.

We recommend that the ministry consider using the dispute resolution procedures used by the Ministry of Labour—conciliation, mediation—and, failing settlement between the parties, that the matter be referred to a third party for binding arbitration. If any of the licensed area is licensed to an employer who has a collective agreement with a union that represents persons who work in a licensed area, the union shall receive prior notification of the contemplated change and have the right to make representation. Our jobs would be involved in it.

General: Throughout the bill, reference is made to specifics that will appear in manuals and regulations. We realize that the policy framework for forest sustainability provides the guiding vision for them. However, we have little firm basis at this time for adequately evaluating the impacts of the bill as it relates to our collective agreements and therefore our jobs. All sections dealing with licences have only increased our uncertainty and apprehension regarding their status, particularly as it relates to tenure and reductions.

1010

Subsection 31(1) allows the minister to amend the licence in accordance with the regulations. Subsection 32(4) provides for what could be an automatic reduction of 5% for section 23 licence holders if the licence is transferred, assigned, changed or otherwise disposed of. Subsection 35(1) allows the granting of a forest resource

licence on an area covered by an existing licence. Any of these situations could result in a shortage for the prime licensee.

Tenure in the form of an assured wood supply is a requirement for continued investment by the financial institutions and a clear responsibility and incentive to the industry to manage the resource on a sustainable and environmentally sound basis.

Our collective agreements and our members' livelihoods could be drastically affected by any change in licensing and tenure.

We recommend that all sections dealing with licences be redrafted to clarify the types of licences, their term—we recommend for licences issued under section 23 the term to be the same as the present FMAs—and responsibilities with respect to whether they are only timber harvesting licences—subsection 22(1), supply agreements—or whether they are licences that carry the responsibility for managing crown forests for sustainable forest resources according to clearly defined objectives.

In any event, all licences should specify the requirements and obligations specified under subsection 23(2). If a change is contemplated and the licensed area is licensed to an employer who has a collective agreement with a union that represents persons who work in the licensed area, the union shall receive prior notification and have the right to make representations.

Pricing: At the present time, crown timber charges, stumpage fees, vary depending on the type of licence issued. We recommend that the holders of any forest resource harvesting licence issued pursuant to subsections 22(1), 23(1) and 24(1) shall pay the same amount of forest resource charges regardless of the type of licence issued except for destination.

Conclusion: Once again, we reiterate that we support the principles and objectives of this legislation. We hope our suggestions and recommendations will assist you in making some improvements to the legislation that we feel is necessary without destroying the true intent of the bill.

That concludes our presentation.

The Vice-Chair: Thank you very much. We certainly appreciate the thought that has gone into the presentation of your brief. We will begin the rotation with the Liberal caucus; approximately five minutes each.

Mr Frank Miclash (Kenora): To go back to your page 3 where you've indicated, "The minister may establish local citizens' committees"—and the word should be changed to "shall" establish local citizens' committees: You've sort of touched on a bit of what you saw a local citizens' committee as being. I'm just wondering if you could expand on that in terms of what you see as the membership and possibly the mandate of such committees.

Mr Miron: Well, the mandate would be strictly, as I see it, as an advisory role and under provincial guidelines. That is, the provincial interest would have to be recognized. Sometimes local committees have a way of looking at it only through local jobs, for instance; if a certain mill closes, things like that. You will find that when the jobs are affected they think differently. So the

provincial interest—when I say that, the interest of all the people in Ontario—has to be reckoned with. In the local committees, they operate as advisory committees.

The local knowledge is there and experience; certainly a lifetime of it is available in these communities. I had an experience of it one time in a municipality where they were putting in a lift plant for sewerage, and the local miners had said to me, "That's impossible; that's all muskeg," and when I brought this up at council I was told that they had a company in, the expertise in, and they'd drilled holes and they had the soil and samples and the whole thing and it was fine etc. Lo and behold, what happened when they put it in? It sank three feet in the first week it was constructed. So the local knowledge was there, and I think we should be taking advantage of that.

The makeup of these committees, I would think, would be the environmental groups, tourist operators, everybody who has an interest in that area. But they would be, of course, local people who have an interest in it. I have no objection to independents, company officials, everybody who has an interest in it, including labour.

Mr Michael A. Brown (Algoma-Manitoulin): Thank you for your presentation. We always appreciate definite suggestions as to which sections need to be amended. I'm looking at your pricing paragraph. I'm interested in that and in understanding why you're making those suggestions.

Mr Miron: Well, natural resources belong to the public and I believe they should all be the same price. Under the system that we have right now, there's quite a variation. For instance, district cutting licences: DCLs today are about \$5 a cubic metre. The FMAs and order-in-council licences, when destined for a sawmill for instance, right now are \$11.37. That's about \$6 a cunit difference. We think under the new act it should all even out and it should be the same, and the large companies shouldn't be able to take advantage of the independent operator, because they can read and they know what the prices are, and they take advantage of that cost. We have to remember that the independent operators, as I call them, the vast majority of them do not have the means and they don't process it themselves. They sell it to someone who has a processing facility, and the owner of the processing facility sets the price and takes advantage of any variation in the price. This is what I mean.

Presently there's something like 800,000 cunits produced under DCLs, and under that \$6 difference we're talking about \$5 million annually. I think our taxpayers shouldn't have to subsidize. We should receive a fair return for forest resources.

Mr Brown: Thank you. That also brings up the question, which you don't mention in your brief, and I know you've been very active with, and you and your organization should be commended for, your work with the industry on the code of practice that the industry put out a year or a year and a half ago. The issue of best end use has appeared before this committee on numerous occasions, and I wondered what your views are on that issue and how we might best address it.

Mr Miron: Well, the best end use or value added I think is essential also, but when we talk on value added,

we mean adding something to the product that is already produced and not necessarily saying that "value added may mean." Some of them have that interpretation of value added, that if we put it through a sawmill, we can get per cubic metre \$100, and if we put it through a pulp mill we can get \$200. So that's value added, and that isn't what we're talking about when we're talking value added. We mean adding something to the product. It may be in the form of a paint; it may be in the form of other matters. You also had another—you're talking about best end use—

Mr Brown: Yes.

Mr Miron: —and best end use, we've always stipulated that the larger sawlogs can go into peelers or, for instance, go to a sawmill, and then returned to the pulp mill in the form of chips. There should be assignments made. There should be assignments and there should be tradeoffs. When we see trucks crossing paths, one going east and one going west, it's adding to the cost. It just doesn't make sense to us in that manner. We think we can make much better use of it. This is one of the concerns we have, one might say, with the chippers. If they convert completely to chippers, what happens to our sawlogs?

In the chipping operation, for instance, the log goes directly. There's a feller-buncher out there that fells the tree and then the skidder operator brings it directly either to the landing or to the chipper, and then it's processed. Under the harvesting operations, whether it be the skidders or other matters, it is delimbed by a delimeter, which is one job. It is then bucked by a slasher operator into lengths, which is another job. It is then loaded by a machine on to a truck, which is another job. Those jobs, when a chipper is there, are all eliminated because it goes directly. The chipper now delimbs, debarks and blows it right on, which means loading it, and if we say that best end use means assigning sawlogs to a sawmill, you'd have some opposition. I know from industry there is some opposition that we would have to keep all this other equipment just for sawlogs. They wouldn't need it otherwise for their own purposes.

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So it does give us some concern, and there has to be some of the proper assignment of sawlogs. We believe that the company that holds the licence should be responsible for separating that and sending it to a sawmill.

Mr Chris Hodgson (Victoria-Haliburton): Thank you for your presentation. I believe you're the first union representatives that we've had appear before the committee, and we're very appreciative of that. We've had the concern that people haven't been given enough time to analyse the manuals and all the regulations in detail to know how they will impact fully. I'm sure you'll send in more comments if you come across them as you mention on page 6 of your report.

One of the disadvantages of going second is that sometimes your questions get taken, but I'd like to go back to your answer to Mr Brown about the pricing. I've got a couple of concerns; they're just questions, really. On the DCLs, you mentioned the difference. We've heard quite a bit about this one, or I have in my area. Why is it set

at \$5 now? Why is there a price differential?

Mr Miron: You'd have to ask somebody other than me.

Mr Hodgson: No, I can ask their answer later. I want to know your opinion. If you want to make it the same, you must have thought of—you don't think that will have any impact, or—

Mr Miron: No, I don't. I think that our natural resources, under the new legislation, would certainly increase and have increased, and we've heard a lot about it. I do believe that various companies have been trying to take advantage of any decrease in cost in DCLs to carry a different rate. DCLs may be out, but whatever licence, if it carries a different rate, I'm sure they would be taking advantage of it.

It's a problem all over the place where the taxpayer has to subsidize. They talk about it being small businesses. Well, it isn't small businesses because in a lot of cases it's large businesses and in some instances there is more than one operator who has a number of DCL licences; he may have them under different names or under the same name, but a number of them simultaneously. When they are out harvesting, the vast majority of them, at least in northern Ontario, are all suppliers to the major pulp-and-paper companies or the major sawmills; they're all large suppliers. Certainly, the managers of those operations and the CEOs can read. They know that if it's less and if it's \$6, they're going to take advantage of it.

Mr Hodgson: So they just cut the price \$6 accordingly.

Mr Miron: Yes. Then they say to the union that your workers have to be competitive—well, we can be competitive in terms of production and other things, but certainly, how do you become competitive when, first of all, most of them are not covered by WCB through themselves, 13%, 15%? Then they get a break on the stumpage fees paid.

We have a large pulp and paper company paying for their employees who are unionized, \$11 for instance, and purchase wood \$6 in stumpage less the WCB. They can work different hours and it's not competitive. We believe that any resource licence that's issued should carry the same price. There's no rationale for it being different, and we believe and we know that the independents can produce it cheaper regardless, and the companies are going to take advantage of it anyway. So all we are doing, if we do increase it, it carries all the same, because it still will be a cheaper product. After all, unions are there to represent workers and to have top wages and conditions.

Mr Hodgson: Will that help the wages, you think, of the workers?

Mr Miron: I don't think it would make any difference. The companies would have to add that on.

Mr Hodgson: Would it make the companies less competitive on the international market if they have to pay more for their wood?

Mr Miron: If that's the case, let's lower it all.

Mr Hodgson: Get a net level playing field, is what you're saying.

Just a second question, if I can, Mr Chair, just a little one: You mentioned the trend that we have right across the province that companies are avoiding the payroll burden that's inflicted upon in this province and they're contracting out the work and that the workers and their families aren't even covered under workers' compensation any more. What's the trend in your industry? What's the numbers in your union and have you seen that happen, that companies will contract out the work to avoid the payroll burden?

Mr Miron: Oh, very definitely. They call it purchased wood. Sure; they have a contractor system, they have their own harvesting employees and they purchase wood. Now, purchased wood, of course, is always a chance because they set the price. I can give you 10 DCLs and unless you have a sawmill to process it into a product, a sawmill or some other manufacturing facility to process it, you're at the mercy of the mill owner. He tells you what it is—he or she—and this is the price and if you can't get it—we find where they cut prices and do certain things, that the independent operator out there, in order to maintain his business, has to look around for ways to cut costs and keep his head above water and a lot of times, it's at the expense of our environment and our forests, sad to say.

Mr Len Wood (Cochrane North): I'm not going to get into the other areas of independent contractors and DCLs because I think it's been covered. In your introduction you're saying that you don't have a problem with the interpretation of sustainability as far as forestry's concerned because it's spelled out in your labour agreements or as a policy, when you're talking about wildlife, soils capable of supporting varied ecosystems. So, I just wanted to make that point, that your organization, which is represented right across Canada, has been using these words and the interpretation is there.

In the last paragraph on the introduction page, you're saying that you'd like to see a short version of the act available. How do you feel that we should distribute this? Through the education system, starting out in the schools to make sure that people are aware of how the crown land is managed, the province or the government of the day is the landlord of the forestry industry or the forest out there? How do you think that should be distributed throughout the—

Mr Miron: First of all, it's the act that I'm talking about and it should be written in plain language. I understand when lawyers get at it, nothing is impossible until you give it to lawyers sometimes. I suppose you have to create work.

The legal document has to be there, but the document itself can be—licences, the types of licences, what it means and that—written in language that working people understand and yes, distributed to schools; yes, to the ordinary worker; yes, to the people—my members, for instance; members of other unions that are involved in the mills and others can take it. Without looking at the legal document that says to refer to section 2 of 3 of 10, it just says "This is what it means."

Mr Wood: You're talking about a simple booklet, 10 pages or whatever.

Mr Miron: Yes, just a guide, that would say it in simple language so that my daughter, for instance, who is in university, is not involved in forestry, will understand what the act means. I think they'd be a real benefit to people, and they would get a lot more involved.

Mr Wood: On page 3 you've mentioned that you recommend changing the word "may" to the word "shall." I understand that in the environmental assessment ruling that come down, which the government is bound by, the word "shall" is there, so there's no doubt that an amendment will have to be made to make sure that the wording of that complies with the act.

I guess you were here yesterday and you heard comments that independent loggers or DCLers cannot afford the cost of hiring a forester out there, and it was covered on the front page of the Thunder Bay newspaper today, that they would be at a disadvantage. I just want to know if you want to comment on that, Mr Miron.

Mr Miron: Well, I was very discouraged by that by saying that we don't need a management plan, just leave us alone and we'll do what we're doing, regardless of what the conditions are going to be of that forest out there. For our own membership that I represent we have to have a management plan. It's certainly required out there. We must manage the forest for its many diverse values and there must be a plan in the prescription; in other words, that we don't continue doing some of the things that we have done in the past.

As I say, I grew up in that area, my father was a timber contractor, and I can remember load after load coming and harvesting. Some places that are there now that are so barren, a grasshopper would have to pack lunch to get across.

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I can remember the arguments even with my father that God put the trees there and he will replace them and it doesn't matter how many, that God was having a hard time keeping up. Actually, the old thoughts were—when I talked about replanting, I just knew.

You know, I'm an environmentalist. I think most of our members are because our jobs depend on it. But when we would talk about planting the trees, then the smart remarks would come back, such as, "Yes, we will plant them and then spray them with whisky so they'll grow up half cut and ready for us." Thank God, we're well past those days now.

The Vice-Chair: Mr Bisson, a brief question.

Mr Gilles Bisson (Cochrane South): It's on third-party licences. I'm not sure if I understood you correctly. You were saying we should not allow third-party licences?

Mr Miron: No, I didn't say that. That's the existing licence upon an existing licence. No, I just have some concerns. It says "the minister may" order in subsection 35(2). It may have an effect on our jobs if some of that is third-party or another licensee coming on or something else that we're not utilizing at the present time, as we have hardwoods. It may be, but we want the right to make representation to bring it out into the daylight and examine it, is what we're saying.

We have concerns on it, how it would apply. It may create a shortage of timber. What happens is, if there's a surplus, even with clawbacks or anything, what are we going to do with them? If it's a surplus and we claw it back and then give it to an independent operator, as was asked yesterday, all it means is it's a replacement of jobs. It's not creating any jobs because the timber supply, let's say, to that mill is all there. It's there whether it's union, part union, all union—not all; there are none all—but the timber supply is in place. You claw back and then create, and say you're creating with the independents. All you've done is remove it from somewhere else. You've taken somebody else's job. There are only X number of cords.

If the clawback or the removal of timber from a licence is for another mill, that's another matter, but to just take it back—as I say, we have concerns on third-party because of those kinds of things we'll call X, how they affect our jobs. There's insurance, for instance, what's known as insurance when there's a surplus. You have to have a bit of a surplus. They call that insurance in the industry and what we call it is insurance against fires, natural disasters that may be out there that may destroy a portion of the timber, and that mill then is out of business unless you have that kind of insurance.

Different licences—and all that will be determined—need less insurance. For instance, in a black spruce swamp the fire hazard is lower than it would be in a jack pine stand like E.B. Eddy or somewhere like that so they need less of the insurance. But those things all fall in and we have concerns. Sometimes you don't have to claw back very much. You don't have to take very much from the limits that will put some operator out of business, a sawmill, for instance, 10 jobs or 10 part—everybody says, "Oh, they only took 10,000 cords and it's only 10 jobs," and that has no—there are 100 people. It might just be enough and that sawmill now becomes economically unviable. It just can't run a second shift so it's out of business just by taking a little portion.

Mr Bisson: Could I ask a question—

The Vice-Chair: Sorry, Mr Bisson, we're quite over the limit already.

Thank you very much for your presentation. We certainly appreciate your appearance before the committee. I'm sure you will follow the proceedings with interest. We have another week of hearings in Toronto next week and then clause-by-clause in the middle of September, the week of September 12. I think your comments will be helpful for that.

AVENOR INC

The Vice-Chair: The next presenter is Avenor Inc. I understand Mr Murray Ferguson and Mr Dave West are here to speak on behalf of Avenor.

Mr Murray Ferguson: Certainly. My name is Murray Ferguson. I'm the chief forester for Avenor Inc in Dryden woodlands. With me is David West, who is our management planning forester, also located in Dryden. Although we are both based in Dryden, our presentation will reflect our operations throughout northwestern Ontario, Avenor having operations both in Dryden and Thunder Bay. Dave and I are both registered professional

foresters with considerable experience in timber management planning.

I will be making the presentation. However, because of Dave's familiarity with timber management planning and because Dave has recently been involved in the preparation of the Forest Management Planning Manual, he is along with me today to assist in answering any questions that may arise.

First, by way of introduction, Avenor Inc is an international forest products company formerly known as Canadian Pacific Forest Products. In Ontario, Avenor operates mill complexes in both Thunder Bay and Dryden. Our company and its predecessors have been operating mills in these locations for over 70 years. My family, for instance, has been steadily employed at the mill in Dryden since 1919. Products manufactured by Avenor include both softwood and hardwood market pulp. Also produced are newsprint in our Thunder Bay mill, white paper and stud lumber in Dryden.

Avenor holds eight major timber licences, five of which are forest management agreements beginning with the English River forest which was the second forest management agreement signed in Ontario back in 1980. Additionally, we hold licence on three company management units.

As well, Avenor relies heavily on wood produced by contractors working on crown management units and also receives a substantial portion of our fibre requirements in the form of chips produced by area sawmills.

Avenor directly employs 1,300 people in Dryden and 1,800 people in Thunder Bay. A total of 3,100 people receive their paycheques from Avenor in northwestern Ontario. Many other jobs can be linked directly to Avenor through our contractors and our suppliers.

We have a proven track record of solid working relationships with northwestern Ontario communities, native bands, the tourist industry, other forest products companies in the area, members of the local public and government agencies, such as the MNR. We believe we are a progressive company and we support the concept of sustainable resources and we welcome any changes to the Crown Timber Act. However, we do have a number of concerns.

Our first concern relates to the concept of timber as opposed to forest management. We as a company support the principle of sustainable forests. However, it appears that Bill 171 is attempting to include all renewable resources within the framework of an act written very much for timber. Merely substituting "forest" for "timber" is not sufficient to address all resources. We believe a more suitable approach to resource sustainability would be to draft umbrella legislation which would set the framework for relationships between a revised Crown Timber Act and legislation dealing with other renewable resources.

Our second concern deals with the time frame. We feel the time frame under which the new act is to be implemented is much too hurried. In the period of a few short months, this legislation is being pushed through.

This act deals with some very complex issues and has

the potential for significant impacts on the forest industry. These impacts cannot be fully understood based on the information we have received to date. Some of the potential impacts include increased responsibility for data collection, studies, reports; increased costs; and a loss of tenure and an increase of uncertainty of our wood supply.

There is a great deal of uncertainty as to what our roles and responsibility will be and what rights of security we, as an industry, have on our licensed areas. Much of the detail associated with the new act will be laid out in the four manuals that are referred to in the act: the Forest Management Planning Manual, the Forest Information Manual, the Forest Operations and Silviculture Manual and the Scaling Manual. These manuals are being hastily drafted with limited opportunity for review by the industry or by anybody else. Considering the significance of these manuals, we suggest that the process be slowed down to provide adequate time for their preparation and review.

A second concern with the manuals in preparation is that they can be altered under the authority of the minister at any time. We believe there must be a mechanism provided for public input prior to any alteration or amendment of these manuals.

I might add that we have conducted timber management under the guidance of one manual for several years and have found it to be a very bureaucratic and time-consuming process. We believe that forest management with four manuals will become even more bureaucratic and unwieldy.

We are concerned that under the new act forest management will become process-driven rather than results-driven. It appears that increased responsibility will be placed on the industry to gather information, undertake studies and supply reports. It remains unclear as to the detail or type of information that may be required. It is conceivable that the forest industry may be obliged to gather information not directly related to timber and for which our expertise may be limited. Depending on the detail required by the manuals, the information requests and the will of the minister, our flexibility to achieve forest management objectives could become severely limited as we shuffle paper and do process work that does not yield positive results in the forest.

There also remains the question of costs associated with information gathering and study. How much is this going to cost us? While the act specifies that the minister may require industry to gather information and provide it to the minister, it is unclear whether government is prepared to share these costs or if industry is obliged to cover all expenses.

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We are very concerned with the punitive nature within Bill 171. The substantial increases in penalties and the emphasis placed on this section of the act implies that major problems presently exist in forest management. In reality, the forest industry has been in almost total compliance with all aspects of legislation and cutting approvals. Our track record is well over 99% compliance. The minor transgressions that have occurred have been accidental and have not resulted in significant negative

environmental effects. The high quality of our performance has been confirmed by independent FMA reviews. I believe our company's had seven of these over the past few years, all with positive results.

The good health of Ontario's forests has been verified by the Ontario Independent Forest Audit Committee in its report of October 1992. I'm sure you're all aware this is a report that the minister has referred to extensively.

Additionally, the Class Environmental Assessment by the Ministry of Natural Resources for Timber Management on Crown Land in Ontario, in its report of April 1994, is very supportive of timber management practices in Ontario. This EA report is the result of the most intensive review of timber management ever undertaken anywhere, not just in Canada. It provides some legally binding recommendations and should not be taken lightly.

Ontario's forests are in good condition and are being well cared for. Despite this, the new act lends support to the myth and misinformation perpetuated by many groups that the sustainability of our forests is in danger. I would include in that group that is perpetuating these myths some of the green groups, the media, and I'd have to link politicians and bureaucrats into that as well.

We are concerned with the degree of tenure associated with our timber licences. Security of area and wood supply is extremely important to the forest industry. Without such security, it's very difficult to attract and maintain the financing necessary to keep our mills modern and competitive.

Our FMAs have been working well. They are ever-green in nature and there are limits as to how much area can be removed without replacements. Under the new act, there is little security of wood supply.

We would prefer to have the present FMA system retained as a legal and binding arrangement with the government of Ontario to manage these forest lands in a manner acceptable to both parties. To date, the FMAs have proven to be eminently successful, and to change them is to send out a negative signal on the merits of doing business in Ontario.

It appears that the minister will have almost unlimited freedom to remove areas from our licences and to issue overlapping licences to other parties for wood supplies from the same land area. This is already happening, as the minister had made commitments to other companies for access to hardwood volumes in areas licensed to Avenor. This is happening despite expansion plans by Avenor which are relying on those same volumes.

We are concerned that under the new act the minister will have enhanced powers to limit business arrangements relating to our licences. To date, we have been free to enter into third-party agreements that allow other forest companies access to timber on our licences, and this has worked very well, providing positive benefits to both our company and to others.

The new legislation will allow the minister to arbitrarily offer fibre under a "competitive process" that will permit other companies access to wood from these licences. In effect, licences may be stacked on licences and industry may have little say into what arrangements

are made. Conceivably, wood from our licences could be made available to our competitors. Furthermore, the original licensee is to be held accountable for all crown charges, even though they have no say in the disposition of the wood.

Security of tenure is essential to a healthy forest industry in Ontario. We request that security of wood supplies for our mills be more clearly spelled out. Additionally, we request that the issue of area charges be clarified. What exactly are we paying for and how is this money to be used?

We support in principle the concept of trust funds to ensure the regeneration of our forest. This is a very progressive step over past practices of directing all revenues to the provincial treasury. We do wish to emphasize the need for flexibility as to how the funds within the trust are disbursed. Our regeneration costs have been among the lowest in Ontario, and we wish to ensure that we retain the flexibility of matching the most appropriate regeneration method to each particular site.

We have major concerns with the definition of a "forest resource processing facility." Under the new act, the forest resource processing facility includes any facility, whether fixed or mobile, where trees or other forest resources are processed. This could include bush equipment, such as mobile delimiters, slashers or chippers. The need for licences associated with resource processing facilities and the possible restrictions on their location could severely limit our operating flexibility and significantly increase our costs. We suspect that this section of the act is aimed directly at mobile chippers. This is reinforced by including chips under the definition of lumber.

We ask, is it the intent of the minister to use this provision of the act to either limit the use of mobile chippers or to direct fibre to sawmilling companies? We view this approach as direct government intervention into what is currently a free market. Such intervention would effectively reduce and limit any influence by pulp companies over chip quality or price. We must reinforce the need for high-quality, affordable chips by our pulp mills. We cannot survive on poor-quality residual fibre of the sawmill business.

There will always be pulpwood stands in Ontario, and that is a reality of our forests. We must retain the option to manage them efficiently. Managing all forests for sawmill production could only lead to high-grading operations.

We emphasize that at the present time there are positive working relationships between sawmill and pulp companies. Many trades are happening. We have solved problems of chip and log quality and supply as they have arisen. There's no need for government to become involved in these business relationships.

Finally, we are concerned that this new act greatly increases the power of the minister. In many cases, the minister has complete authority and is accountable to no one. There is no option to appeal decisions made by the minister other than to the minister himself. We believe there is a need for public input into these decisions and a definite need for an appeal mechanism relating to these

decisions. This lack of consultation is in direct contravention to the recommendations of the EA report, which provide for increased opportunity for public consultation.

In summary, we must say that Bill 171 is regressive legislation. It is punitive and regulatory and will do nothing to stimulate the excellence we in the forest industry must achieve if we are to survive and prosper in an international marketplace. I remind you that good forest management is good for industry. Bill 171, in its present form, will not foster good forest management.

We suggest that Bill 171 be set aside until all affected parties have time to review and comment on this important legislation. Legislation as important and far-reaching as this cannot be hurried.

We'll entertain questions at this time.

The Vice-Chair: Thank you very much, Mr Ferguson. Before I pass it on to the Conservative caucus for questions, I'd like to welcome the member for Port Arthur and Minister without Portfolio, the Honourable Shelley Wark-Martyn, who has just joined us.

We'll continue then with the questions.

Mr Gary Carr (Oakville South): Thank you very much for the presentation. I think you're like a lot of people who have come in. Everybody is in favour of the intent. As you know, all parties supported it in second reading and we've had industry, environmental groups and unions come in all saying that they support the intent.

As we're getting into the nitty-gritty, though, and getting down and people are reading it, there have been some major concerns. Spruce Falls, when we were up in Kapuskasing, said if we don't make the changes, they advised us not to pass it. A chap was in yesterday, and I read the headlines in one of the papers, saying that the plans for forests could kill area jobs. I'd like you to be as straightforward with us as you possibly can. If there are no changes and this bill passes as is, do you see job losses happening at your company?

Mr Ferguson: That's a very difficult question to answer. I guess probably our major concern with the act is that there is so much uncertainty associated with it that we really don't know what the effects of this legislation will be. The powers of the minister are almost unlimited, depending on his will, the decisions he makes, and we're seeing evidence of that now with announcements of hardwood projects in northwestern Ontario that are directly cutting into our wood basket. We don't know what those effects are. We don't know the details of the manuals yet. They are still in preparation. Even the drafts that have been provided are being redrafted as we speak.

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We don't know what is going to be required, what the additional onus is going to be on our costs associated with preparing national plans and the cost of operating and in fact what security of wood supply we have. Certainly, without security of wood supply and a clear path of what is required by the industry, we cannot attract investment that allows us to remain competitive. So yes, I would think that there is definitely a possibility that this could lead to job losses.

Mr Carr: A very short question: As you know, we have to vote on this bill as is. If there are no changes and if you were Gary Carr and got to vote on this bill in the Ontario Legislature, would you vote for it or against it?

Mr Ferguson: I would have to vote against it.

Mr Carr: Thank you. I think Chris had a couple of questions too.

Mr Hodgson: Just a little, wee one. Thank you, Mr Chair, for your leniency.

The Vice-Chair: A short question and a short answer.

Mr Hodgson: We've heard quite a few recommendations from people that there should be some mention of "best end use" put into the legislation. You must have some opinions on this thing. I'll keep the question short. Can you just give me your comments on the idea of including "best end use," for the record, for the committee?

Mr Ferguson: Yes. I don't think we're in disagreement that best end use is a good direction to go. It depends on what your concept of best end use is. One of the concerns that we have with the legislation, certainly we have the feeling that there are some direction limitations as to our ability to use mobile chippers in the woods.

One of the reasons we got into mobile chipping and have invested substantially in it, not only our company but many of the contractors, is best end use of the forest itself. Putting chippers in the bush allows us to sort logs. Logs are sorted on chipping operations and provided to area sawmills. But over and above that the remainder of the tree, the pulpwood portion of the tree and the pulpwood trees, which are not capable of making logs, do end up, in our opinion, in the best end use in that we probably gain 15% more fibre out of the tree by using in-bush chippers and also have the ability to supply our mills with fresh, high-quality chips, certainly a much higher quality chip than what we get from sawmills. So, although the sawmills may think chippers are not the best end use, from our point of view they certainly are, and can satisfy not only the requirements of the sawmill business but also the pulp business.

Mr Bisson: By way of comment more than a question, your comment in regard to the bill being brought forward a little bit too quickly is I think a little bit off the mark. As you know and as everybody in the industry knows—

Mr Brown: That's your opinion.

Mr Bisson: As you know and as your industry knows quite clearly, there has been an environmental assessment that has been under way for some four or five years and much of what we find within Bill 171 is as a result of a lot of work that's been done over four or five years. As well, your industry has been plugged into the process fairly directly. But anyway, I understand why you're saying that and I would say that you probably understand the bill far more than you make out to today.

The question of security of wood is an issue that's come up a couple of times by a number of different presenters, mostly people who are current FMA holders. You would know that under the present Crown Timber Act there is nothing whatsoever that gives you tenure to

wood. Where you get that is in the signed FMA that you undertake with the crown and that's where the evergreen clause is found, where you get—I'm not going to explain it. You understand it far more than I do. But the evergreen clause in regard to tenure of the wood is not in the Crown Timber Act that has been in place for some 40 years. It's within the FMA that you've signed with the ministry.

Under Bill 171, the same will hold true in a section 23 licence. I'm surprised if you don't know that. It really quite stupefies me, because tenure of wood is obviously something that is very important for somebody who has a substantial investment in a wood processing facility. Obviously, that's something the ministry wants to make sure that they recognize in their section 23 licences.

The other thing is in regard to the remedies and enforcements. You were talking about the bill having a punitive approach to enforcement rather than a remedial approach. I think if you look at the bill, you'll see what it does is that the first step in the process is to say if there is an infraction in regard to how the work is carried out, the first thing the ministry does is ask you to go back and do it again and do it right. That's the way that basically most forest companies operate.

I live in Timmins. I worked with Abitibi, I worked with Malette, I worked with E.B. Eddy, and I don't know any of those operators to be irresponsible in how they treat the forest. They take the responsibility very seriously and, quite frankly, know how to do their job. I'm sure that you do as well. The intent of the bill is to recognize that and to say that we need to have a process.

First of all, what we need to do if there is a problem—sometimes it's inadvertent, sometimes a direction might not be carried out as clearly as maybe you would want it to in regard to the people doing the work—is that there has to be a remedial process in the intent. That's what the legislation does as the first step.

As a second step, if the person refuses to do the work, the minister may order that person to do the work. He doesn't jump to a fine. The ministry would order the person to go back and do the work, and if the person didn't do it, then the minister can say through the court system, "I'm making you do this work, and if you don't, then you jump to a fine."

I just think the way that everything was lumped in together by saying it was punitive doesn't reflect what's in the bill, because I think what the ministry understands clearly and this government understands is that there has been a lot of good work that's been done in the forestry industry over the past 20 years.

The FMA systems are a model that we're building on, something that's clearly a good direction by which we can set the standards by which we operate, and that's what this legislation does.

In regard to—

The Vice-Chair: Do you want to leave some time for Mr Ferguson to comment?

Mr Bisson: Mr Wood?

The Vice-Chair: No, there won't be time for Mr Wood. Mr Ferguson, did you want to comment?

Mr Ferguson: I certainly would, if I have the opportunity.

The Vice-Chair: Go ahead.

Mr Hodgson: You can take the Liberal time.

The Vice-Chair: No, we're still on NDP time.

Mr Ferguson: I guess a number of points have been brought up here fairly quickly. Firstly, on the subject of the EA, yes, there are some things in the EA that speak very clearly to some of the things that are attempting to be reflected in Bill 171. I would point out, however, that the EA was approximately four and a half years in a period of hearings and almost, I guess, a little over six years in the preparation of the final report. The EA talked to the subject of timber management, not forest management. The EA was very clear in that and there was a distinct difference.

We, in a very short time, are trying to force something that is much more encompassing than timber management into something much broader. I would add to that that even the time frames in the EA are being moved ahead very quickly. One of the terms and conditions of the EA report specified that a draft of a revised Timber Management Planning Manual would be produced within six months and then fairly lengthy opportunities for review and comment would follow that. In effect, a Forest Management Planning Manual has been rushed through in less than three months, I guess, and then opportunities for input are quite limited. There is some merit to what you're saying; there are also some flaws in that.

The security of our licences becomes—I recognize what you're saying, that some of the things that are not provided for in the Crown Timber Act are quite true. However, we have become very concerned over the past several months with some of the signals we are receiving from the minister, particularly as it comes to withdrawals of land for such things as old-growth forests, for revised park systems and, most recently, the removal of areas from our licence areas and diverting to new businesses when we have definite plans for utilizing volumes from our licence areas. That is of real concern to us and definitely sends us a very negative signal.

The punitive nature: Recognizing what you're saying there as well, it does not say that right off the bat you're going to get levied with a \$1-million-plus fine. However, just the tone of the legislation itself implies that. It doesn't say you're going to be asked to repair damages or to take corrective action. It says that here is the range of fines and it implies to us very strongly that there is a view that there is much wrong with forest management in Ontario, and that is certainly not the case.

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Mr Miclash: First of all, Murray, thank you for coming down to Thunder Bay. It's always good to hear from the good people of Dryden. I must say that your comments regarding the bill being rushed through, and the planning manuals, and the lack of time for review are not the first comments in regard to this that we've heard. We've heard from a good number of presenters who feel much the same as you do.

In your presentation, you talked a little bit about the

costs of this legislation. Mr Carr referred to jobs earlier on. I am just wondering about the actual dollars you're looking at, in terms of what you've seen so far in this legislation and in terms of what it would cost your company in terms of the dollars. Yesterday we heard from the independent contractors saying that the bottom line is that it's going to kill the little contractor. I am wondering if you'd like to comment in terms of your company and what you see it doing to them.

Mr Ferguson: Certainly the little contractors—we refer to them as holders of small licence areas—the act implies that they will have a much more active role in management planning and some of the costs that are associated with that than they currently do. Now that is primarily done by MNR, but some of that may be passed on.

We, as holders of large licences, are already heavily involved in timber management planning. Preparation of a management plan for us at the current time probably runs us \$300,000 to \$500,000. That's for a timber management plan. We have all these additional things that we may deal with. It's really unclear. That's the real glitch in the whole thing right now: It is totally unclear as to what the requirements will be under the new manuals and the ability of the minister to request information and ask for surveys and ask for studies. We can see ourselves getting into quite a process of going out and studying and reporting and shuffling paper, which we have not previously had to do, and we have no way of knowing what that additional cost is, because we don't know what the requirements will be. The uncertainty is the key.

Mr Miclash: I'm sorry?

Mr Ferguson: The uncertainty is the big issue there for us.

Mr Miclash: If you were following yesterday, you would note that we have indicated that we would like a cost-benefit analysis of the bill from the ministry. I think that's extremely important. I made it clear to the parliamentary assistant yesterday that it's something we are going to have to have before we can go on to clause-by-clause. It goes back to your initial point of trying to rush this legislation through without knowing what the cost-benefits are going to be.

You touched a little bit on the hampering of expansion plans, and I know it's something that Avenor is quite concerned about at the present time. I just wonder if you could maybe expand on that with a few specifics for us.

Mr Ferguson: I guess the specifics are that there have been three projects identified in northwestern Ontario which will use so-called surplus hardwood volumes: the one in Thunder Bay and the one in Kenora with Tolko and, recently announced, the Fort Frances one with Boise.

I'm not totally familiar with the details of the Thunder Bay operation, although I understand it does have some effects on Avenor as well. Certainly in Dryden both the Tolko proposal and the Boise proposal will utilize wood supplies that are currently being used by Avenor. There are some commitments made as well for additional volumes coming directly off our licence areas that would go to these new processing facilities.

We have at the moment plans for expansion in hardwood pulping. Certainly it will impinge on those expansion proposals and, conceivably, could limit our current operations. I don't think there's been enough detail into wood supply analysis done just yet to exactly confirm what the major effects of those will be, but certainly they're looking right into the same wood basket we are, with very negative effects on Avenor.

The Vice-Chair: Thank you very much, Mr Ferguson and Mr West, for appearing before the committee. You probably could go on at some length still, but as you will appreciate, there are other presenters now as well who also would like to share their thoughts with us.

Mr Ferguson: That will be fine for now. I have copies of my presentation here.

The Vice-Chair: Oh, you do. If you could leave this with the clerk, it's much appreciated. Again, thank you for appearing before the committee.

FIRESTEEL CONTRACTORS LTD

The Vice-Chair: The next presenter, Shunish Forest Products, has cancelled. However, Mr Dan Macsemchuk who, on our schedule, was scheduled for 9 o'clock this morning, is here. He, however, had the information that it was going to be this afternoon and he has thankfully agreed to make his presentation now, so that we can fill this half-hour, the time that we have available right now. Mr Macsemchuk, speaking on behalf of Firesteel Contractors Ltd, you will have half an hour, and if you'd like to leave some time for questions and answers, we'd appreciate that.

Mr Dan Macsemchuk: Thank you, Mr Chairman. I apologize for the mixup in the time schedule this morning.

I represent a small company based in a small village west of here. We're a privately owned, family-owned business. We employ approximately 30 people. We're a unionized company. We contract 100% for Avenor on their management area.

On reading the parts of the Crown Forest Sustainability Act that I could understand, I can understand the change, the need for progressive change. I think it's good for us. We've worked in the same area basically all my career, and the same area was operated by my father in the past. Right now we're operating three miles from where my father had a camp in the late 1950s. So I understand a little bit about a sustained forest and the manner in which we should be operating in it.

We have a couple of problems. Probably the biggest one with the act is the interpretation of a "resource processing facility." In the past, we always associated that with being a mill—a pulp mill or a sawmill—and it appears in the act now that we're going to move that into including field chippers, and it possibly could extend to other machines, slashers, feller-bunchers, and this sort of cuts right into the heart of the kind of operations we run. If we would have to get a licence, a resource processing facility licence for every piece of machinery, it would become rather prohibitive for us.

We've recently changed our operation to mainly chipping. Probably 35% of the softwood that we cut is

made into sawlogs and the rest at the present time is all wood chips in the field.

With having to get a licence, we have to be able to prove a sufficient forest resource for our area. We must put up a business plan. The ministry may impose conditions of location, mechanical efficiency. Without being able to supply all these, we end up with no security for our wood supply for the machinery we have.

Without a licence, we really don't have the security of being able to operate a business, and licences issued on a one-year basis require us to keep this as an ongoing process. It gets a little difficult to get financial backing from financial institutions if they're only working on a one-year basis. Everybody wants to see a long-term business plan. So these licences can affect us in that manner.

If the ministry's real goal to licence these as mills is to manage the supply of wood chips in the province, then field chipping operations such as we run to conduct business on a sustained basis could be severely restricted. At a time now when machinery and business infrastructure costs into thousands, millions of dollars to operate, the scenario of not being granted a licence makes it extremely difficult to continue to find financial backing and to guarantee job security for our employees. That's important to us. We live in a small community, like I said, and job security is important just for the number of people we know, and we personally have contact with other than with work.

Once we've applied for this licence, there is no flexibility left to us to react to market demands or even weather conditions. If we've committed to a certain volume of wood, a certain type, product type, we basically have to stick to that as far as our licence is concerned. You could end up with a product that, because of market conditions, is undesirable and you can't sell it.

The concern I have if our licence specifies a certain amount of volume and we don't utilize it in a year is that it could become like a government budget: If you didn't use it, you're not going to get it again.

1110

The licences are non-transferable, so if we spend our lifetime to build up our business, there's a possibility we cannot sell our business because the licence is not automatically transferred to whom we sell it to. I cannot even leave it to my children because still there is no guarantee that they will be able to get a licence. This, once again, comes back to job security, not only for ourselves, but for our employees.

One of the results of this licensing will give us an increased bureaucracy. Someone's going to have to analyse the business plans and the forest resource supply projections, inspect mechanical efficiency and operating methods, inspect chippers and fill out inspection reports. Somebody else is going to have read these and approve them.

What, in effect, happens is that we're going to end up with trading bureaucratic jobs, which are tax-consuming jobs, instead of the jobs that are the tax-paying jobs. Some of the conditions that the act looks at as far as

mechanical efficiency or operating methods of woodlands machinery—it's kind of a moot point. Any businessman will strive to make his operation as efficient as possible and as cost-effective as possible, because anything else is really non-profitable.

At the present time, once we switched to field chipping, we find we are getting a better yield per hectare, we're putting a better quality product to the mill than they were used to getting. I think we're putting a far better quality into the mill than what the mill was producing itself—we hear that from mill people—a definite advantage all around.

The solution we have to our problem is to remove mobile whole-tree chippers from schedule 2 and ensure that other processing machinery, such as slashers and delimiters and processing heads, don't become a part of the legislation as mills. That's about all I had to say at this time. I'd welcome any questions.

The Vice-Chair: Thank you very much for your comments. The first caucus to be able to ask questions would be the government caucus.

Mr Wood: Thank you for coming forward with your presentation. One of your main concerns seems to be the interpretation of what processing equipment is for licensing. I know that the wording in there is to combine that type of equipment now. I'm sure that we're not talking about each individual piece of equipment that might be involved in your operation.

I just want to congratulate you. You made the comment that you're on what was formerly your father's operation and you're still operating three miles from the original camp. It's quite obvious that you've been involved in sustainability of the forests or you would be miles and miles and miles away from that particular area.

Your amendments that you think we should put in there that would help you individually, if you could put them down in writing and maybe submit them to us, to the clerk—he can distribute them to us—and what type of wording you would like to see in there that we can do to help your operation.

I know we have two different groups of people: One group I'm sure we're going to hear more from next week, the Ontario Lumber Manufacturers' Association, is saying that they've been lobbying the government for the last 14 or 15 years to change the timber act. We have another group of people who are coming forward saying that the legislation is moving too fast.

We're trying to strike a balance in here somewhere along the line, seeing that the timber act is not doing the job it should be. The new act, maybe with amendments, hearing from the public out there over the last week, this week and next week, we might be able to define the legislation that is needed. I just thank you for coming forward.

Mr Macsemchuk: I think progressive change is welcomed by anybody, in the business or not in the business. It's something we should all look forward to.

Mr David Ramsay (Timiskaming): Thank you very much for your presentation.

I was wondering, through the parliamentary assistant,

because this seems to come up every day in our hearings about the mobile equipment, the licensing of that equipment, could we get somebody from the ministry to give us some more detail about this? It seems to be a concern that it is every piece of equipment. Is the parliamentary assistant dead certain that we're not talking about all pieces of equipment being licensed. Could we ask somebody in the ministry?

Mr Wood: We can get you more information on that, but what pieces of equipment are involved? Your pickup truck, Ski-Doo, four-wheeler, a chipper, a timberjack? Sure, if you want more for clarification on that, we can do it, but we're looking at a sawmill, a chipping operation, a pulp mill, a paper mill.

Mr Ramsay: So you're talking about licensing the bush operation globally, but each piece of equipment within that bush operation?

Mr Wood: What I'm saying is there are a lot of pieces of equipment that are in that operation.

Mr Ramsay: Then, again, what I'm saying is, and I think that's what's being asked and the concern being brought forward, that the operation in the bush will be licensed as a whole, not each piece of equipment. Is that what you're saying?

Mr Wood: This is the question that I asked him to give us a feedback on how he'd like to see it, and if there are amendments that are required, Mr Ramsay, I'm sure that we can address them as we go through clause-by-clause and get the interpretation that we want in there as we finalize the legislation. We're looking for amendments right now from your people, from the presenters, from the Conservative Party to clarify it.

Mr Ramsay: No, I agree with you. We can make amendments in the future. I just want to know what is the intent of the legislation today, and its regulations. That's all I'm trying to get. What's it today? Then we know one way or the other and then we can make some amendments, as you say we should. That's all. I'm just not sure what it is today.

The Vice-Chair: You may want to raise that question again next week when we have ministry officials up here.

Mr Ramsay: It's just frustrating, Mr Chair, we can't answer the delegates who come before us when they've got concerns. Here I am as a legislator and I can't even tell the person coming forward what's in the bill.

The Vice-Chair: The parliamentary assistant tried to give an answer and I guess that's as far as he can go at the present time.

Mr Macsemchuk: What concerns us is that we've been a logging operation and, essentially, if I read the act now, it makes us a mill. There is still an end use after us. All we are is a processing facility in between to separate the sawlogs, separate the veneer blocks, chip the remainder and ship it in, but we've become a mill instead of a logging operation.

Mr Ramsay: Yes, you are considered as a processor today.

Mr Macsemchuk: That's right.

Mr Ramsay: That's what we want to know. If you

are being considered as a processor, doing a process in the bush, because you are changing the nature of the fibre before it gets to the plant, then does that mean that all the equipment in your operation will have to be licensed, and what does that entail? We're going to try to get that for you, as frustrating as it is, hopefully in the next couple of weeks.

Mr Macsemchuk: Essentially, it makes everybody who runs a logging operation a processor as well.

Mr Ramsay: Yes, we agree with that at the moment. We'll try to get that clarified, and if it is so, we'll try to get it changed.

1120

Mr Hodgson: The crux of the issue is mobile equipment being licensed, a mobile chipper. There have been groups telling us that this is a positive step for this committee. As recently as this morning we had the union, the IWA-Canada. On page 2 of their report, "We agree that mobile equipment should be licensed but as a separate category." They linked it to jobs we've got, as mentioned by the parliamentary assistant. You're a unionized company?

Mr Macsemchuk: Yes, our employees are IWA members.

Mr Ramsay: What union do they belong to?

Mr Macsemchuk: Local 2693, the same one that made the presentation today.

Mr Ramsay: The same one? They're asking for this to be licensed and you're asking for it not to be?

Mr Macsemchuk: Probably, the way I look at it, yes.

Mr Hodgson: Okay.

Mr Macsemchuk: My point still is that I am not a mill. We're not a mill. We're not an end. We don't make the end product from the fibre. We just convert it in form on the way.

I think Mr Miron's concerns lead to a specific type of chipper, that is, the whole tree. In other words, it takes the tree as it's cut from the stump and it chips the whole thing. So we purchased—it's a little more expensive, but it allows us a lot of leeway and being able to sort products out before we run them through. It's a little different setup. We did not sacrifice any jobs in our operation when we bought our setup.

Mr Hodgson: Well, am I missing something here or is this just an advance in technology that's changing from the traditional way?

Mr Macsemchuk: Basically, it's old technology. It's just something new here.

Mr Hodgson: New to here. Is this like sort of going from a Swede saw to a chain saw? Is that an analogy?

Mr Macsemchuk: Yes. We're going that fast on it, too.

Mr Hodgson: Okay. Thank you.

The Vice-Chair: That will conclude your presentation. We certainly appreciate your appearance, especially at this time, since we had a bit of confusion there about the scheduling. But it all worked out, so thank you very much.

MARCRI LOGGING INC

The Vice-Chair: The next presenter I think is here as well, Mario Letourneau from Marcri Logging. Also, I should say again that if anybody wishes to make use of the French language, we do have simultaneous translation.

Mr Mario Letourneau: My name is Mario Letourneau. I represent a company called Marcri Logging. I'm the owner and also the president. With me is Barry Angel, professional forester.

We're a contractor for Avenor. We supply both chips to the paper mill and we supply roundwood or logs to the sawmills. We're based out of Ignace. We employ 140 people in the area. We think that the sustainable act could affect our business and certainly could affect our workforce.

Ignace is heavily dependent on the logging operation for its survival. It was recently, a few years ago—they've lost many jobs due to mine closures, so needless to say they're heavily dependent on logging. We're the main employment of the town and we think the sustainable act is good; however, we do have some concerns which I'll ask Barry Angel to voice for us.

Mr Barry Angel: Bill 171 in its present form—you've got a handout in front of you there—is going to be very difficult for Mr Letourneau and Marcri Logging to live with.

With regard to paragraphs 18 to 21 of subsection 67(1) of the act, we've listed a number of reasons here, many of which you've already heard before and many of which you'll probably hear again. Their importance can't be overemphasized, and I'll go through them quickly.

Lack of security for wood supply: The act does not clearly guarantee long-term wood supply for the major licence holders, and we as contractors fall under the umbrella of major licence holders; therefore, showing instability and uncertainty.

Uncertainty in financial support: The fact that the licence can be revoked or not reissued after one year creates a serious concern to the lending institutes; therefore, could prevent us from replacing worn out equipment and limit our ability to expand.

Negative impact on bush unions: There will be no security of employment for unionized bush workers. There is a possibility that the licence to operate the chipper is cancelled or not renewed.

Fibre utilization: Field chippers increase fibre yield up to 15% to 20% per hectare versus the roundwood operation which left tops and any tree lengths below four inches behind. In the event that this bill is passed as is, the only option for us to continue operating would be to go back to the roundwood system with no sales for pulpwood, as paper mills have gone to greater expense to convert their operation from roundwood to chips. I might also add there that it's much safer transporting chips to the mill than it is the roundwood because it's in an enclosed truck.

Lack of flexibility: We have no way of predicting one year in advance what species the mill will want because markets change rapidly. Therefore, we must have the

flexibility to react to their demand.

Competitiveness: Is the real goal of licensing field chippers to control the chips supply in the province? If so, sawmill chips could be forced on to pulp mills regardless of price or quality, making it very difficult to compete and could enable sawmills to increase their chipping production by simply bringing in more tree length for chipping purposes only.

Lack of freedom: The fact that chippers will be operating under mill licences and the fact that the licence may not be renewed is of major concern for us. It limits our option to even transfer our business to sons and daughters—and we heard that from the previous speaker—and even to sell our equipment to a successor or even to sell on the open market. The resale value of chippers could virtually be non-existent.

Forest management plans: We feel that there will be too much paperwork involved for small businesses—the fact that we have to draft a business plan and show sustainability of the forest in order to be considered for renewal of a licence. We have no objection with showing sustainable forest, but we feel it should remain as it is presently, being the responsibility of the licence holders.

We propose—and again, you heard some of these proposals most recently—changes to the bill by removing whole-tree chipping from schedule 2; remove the words “whether fixed or mobile” from the definition of a “forest resource processing facility”; change the mobile to semimobile or semitransportable in the above definition; to also classify chips under raw product, not finished product. This would eliminate the need for a licence to operate portable chippers.

I would just like to reiterate that the length of time to review this particular new piece of legislation is quite short. I'm sure, given more opportunity to study it, as well as the manuals that go with it, we could've made maybe a little longer presentation and possibly delved into some of the other points that I had to make.

Mr Miclash: Thank you for travelling down to Thunder Bay to present to us. What I'd like to ask is for you to expand a little bit more on what you see as cost to you as a small operator. As you say, you've had very little time to go through the legislation, but what have you seen so far that you see as increasing the cost to you doing your operation in northwestern Ontario?

Mr Angel: Well, we would have to present a business plan and there'd be more paperwork involved in putting it all together. It's certainly going to be a much higher cost. We would have to license the chippers. If the government so regulates under the new legislation, it could shut one of our chippers down for a period of time throughout the year, which would create some hardships for paying for that particular equipment through the lending institutions, and the lending institutions would also be reluctant to supply dollars for improvements or expansion. Not really putting a concrete dollar figure on it, but definitely there would be an increase.

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Mr Miclash: In terms of actual jobs with your company, do you see it affecting any jobs, a downturn of

jobs, or do you see this as increasing employment and increasing your costs?

Mr Angel: Under the existing legislation, Bill 171, jobs could be decreased. Again, if chippers are shut down for periods of time, we would probably create an unstable workforce in the community and some of them may even leave the community, which would have some spinoff effects on small business and other institutions in the community.

Mr Ramsay: I'm very concerned about your first paragraph on page 2, under fibre utilization, and I'd certainly like you to give me some more information about this. In the middle of the paragraph, you say, "In the event the bill is passed...the only option for us to continue operating would be to go back to a roundwood system with no sales for pulpwood as paper mills have gone to great expense to convert their operation from roundwood to chips." Why do you think this act is going to stop field chipping operations?

Mr Angel: It may be a little awkward in the way you're reading it right there, but again, if the operations are going to be shut down for periods of time throughout the year to offset an oversupply of sawmill chips that the ministry may decide it wants to use rather than our portable chippers in the bush, the incentive to keep in business would be to go back to the roundwood operation again. Again, I don't think we want to make a step backwards. We want to be progressive in the way we do business and carry on, and that's where we've come to with the portable chippers in the bush.

Mr Ramsay: On the other hand, for sustainability, it's going to be very important for us to make sure that we use all fibre that's already harvested first before we go out in the bush to harvest more fibre. This is a problem with the sawmills, the few that are left in this province, from time to time the surplus of chips, and we don't want mountains of chips piling up in one yard somewhere that's within a transportable distance of a mill that could use that while we go out into the bush and create more chips. There's got to be a balance. But your concern is that they may really stop field chipping operations because of this.

Mr Angel: Yes, that's a possibility, if the government so decides that sawmills are taking precedence over mobile chippers that are on the pulp licensee's area. That could happen, yes.

Mr Hodgson: Thank you very much for coming here today. I realize that you, like other presenters, haven't had a lot of time to go through the manuals and study it; and put forward any other comments you have, if you want to send them on through the clerk.

I'd just like to follow up—it's all related, basically, from the one through your whole report, but on section 6 you talk about competitiveness. Can you just go into more detail on what you're getting at? This is sort of related to what you were just explaining to Mr Ramsay. What's behind this? This is a pretty strong statement, "If so, sawmill chips could be forced on to pulp mills regardless of the price." Why do you say that?

Mr Letourneau: I guess that's a pretty strong state-

ment. I guess what we're trying to say is, sawmills could essentially force the paper mill to buy their chips, regardless of what price or what quality they are. We have a tendency of having a better quality with our portable chippers in the bush. Sawmills have medium-quality chips, I guess. I don't think the paper mills could operate 100% solely on sawmill chips, because they're not of top quality, and in today's markets the demand is top quality at a low dollar. So, that's the way things are going.

Our other concern is that sawmills, being licensed under sawmills, could bring in more tree length for chipping purposes only and you wouldn't have to explain it. They could bring in truckloads and truckloads and truckloads of tree lengths, and just simply putting it through a chipper and selling it to the paper mill and putting us out of business. So basically that's what that paragraph is intended to mean.

Mr Hodgson: I just have one more little question. It's not really related to the act, but when you mention the quality of chips, just for my information, why does it produce a better quality? Is it cleaner or is it a different species?

Mr Letourneau: What it is, in the sawmills, they basically only chip slabs and ends and pieces like that. In the bush, we chip the whole tree. So if you're going to chip a tree that's six inches and seven inches in diameter, you're going to get a better-quality, uniform chip than if you were chipping a piece of wood like this, basically.

Mr Hodgson: So you take the whole tree and run it through.

Mr Letourneau: The whole tree, yes. I guess maybe the perception may be that we chip quality logs, but we're not. We extract our logs from our trees that are a certain size—eight inches and over—take all the logs out and we chip the rest. We do not chip log material.

Mr Hodgson: I'd like to go out and see the operation some time. I think that would be helpful for the committee.

The Vice-Chair: We can always come back up here.

Mr Hodgson: The parliamentary assistant's arranged that.

Mr Bisson: I'd just like to follow up on this whole chipping aspect. I think it's most interesting. Up to what diameter are you chipping? That concerns me. You're chipping actual sawlogs?

Mr Letourneau: No, I just explained that. We do not chip sawlogs. We have two operations. We have a roundwood operation, which supplies sawlogs to the sawmills. What we do, we have another operation, which is chips. So what Barry does is, he goes out there and he tries to determine which stands are going to be chips and which stands are going to be sawlogs. So we go in and do that.

Also what we're doing, we're extracting out of all stands—Barry can't say, "This is all going to be chips," because the wood is not going to be all four, five, six inches; there may be some bigger trees. So in the bigger trees we have a way of extracting the logs before they go into the chipper.

Mr Bisson: So your concern is—let me just see if I follow you—that under part VI of the act, "Forest

Resource Processing Facilities," if I understand what you're saying, you feel that your licence will be then under the licence of a mill. Is that what your concern is?

Mr Letourneau: That's the perception, yes.

Mr Bisson: Okay, it's not my understanding. It's something maybe that we can clarify, because that's not my understanding.

Mr Letourneau: The way we understand the act is that we would have to show, number one, a need for the chips; a sustainable forest, which we have no problem doing. The only problem we have is that we're a smaller contractor for a major company. I think it's up to them to show sustainability. They have for the past—for ever, I guess—made the five-year plan, the 10-year plan, the 20-year plan, and we just do the annual schedules. That's what we do.

Mr Angel: Whole-tree chippers are included in schedule 2 in the act in its present form. If it wasn't in there, then there wouldn't be this problem.

Mr Bisson: In the definition, you mean?

Mr Angel: Yes, that's right.

Mr Bisson: You make the same point as a number of other presenters have done in the industry, and that is the question of tenure. Just by way of clarification, as I mentioned before, under the timber management act presently there is no tenure through the act. It's through the actual signed agreement that you have with the crown through the FMA. The same would hold true under section 23 of the act or 24. The evergreen clause that you talk about is contemplated within the agreement that you signed. So the tenure thing is the same under the old act as it is under the new, just by way of clarification.

Mr Wood: Thank you very much for your presentation and coming forward. You've covered four items concerning chipping and permanent chippers versus portable chippers. I guess the same thing would apply to sawmills, portable sawmills, permanent sawmills. The technology has changed from when the timber act was brought in in 1952 to the technology we have today, where operations can be mobile. In my mind, I'm saying if a sawmill is licensed and it's sitting on piers, if it's portable or if it's a portable chipper versus a permanent chipper, why would the licensing not be the same?

The other area that you covered in some of the comments to the Liberal Party was that you're saying cost, but there is a certain amount of cost now involved in the primary licensee. You're operating off their licence. They have a responsibility and they've had a responsibility for a large number of years that when they go out to harvest trees, they have a prescription or a plan of what it's going to look like 80 or 90 years down the road for the security of their operations. In my mind, I'm just curious as to why you would think the primary licensee would pass that cost on to you as a contractor, because they're already doing it now.

Mr Angel: I don't quite understand how they're passing it on to the contractor.

Mr Wood: You're saying your costs might increase.

Mr Angel: Why not leave business the way it is, like it has run for the last few years? What's wrong with

portable chippers producing their material and shipping to the major licensee? We can work under the umbrella of Avenor and still maintain a viable business. The new legislation is trying to restrict how we operate. That's what it's trying to do.

Mr Wood: I'm well aware of the technological changes that have taken place and the fact that it used to be—Great Lakes shut down their operation and they don't have the chip supply from their yard that they used to have before, when they had the chipping saws, and 50-50: 50% would go into lumber and the other 50% would supply their big wheel. I'm well aware of those changes that took place in 1987 and 1988 and I'm just saying in my mind, why would there be an additional cost from doing business? Because they've been doing this type of business for years and years and years in both Dryden and Great Lakes here—now they're called Avenor. But I'm curious in my mind as to where the extra cost would come in.

Mr Angel: If the new legislation forces us to shut down these chippers for periods of time throughout the year, then it's additional cost.

Mr Wood: Why would the legislation shut down your chippers?

Mr Angel: Because the ministry may decide that there's an oversupply of chips from a sawmill somewhere and that this particular chipper is not required to be run in that area.

Mr Wood: So you're saying to eliminate the waste out there, you fear that could happen.

Mr Angel: It could happen, yes. It's not spelled out in the new bill that clearly.

Mr Wood: I don't think the taxpayers in this province and the government, any government, would want to see a lot of waste taking place. They would have to take some kind of action; there's no doubt about that. But what it would be and who it would involve, I don't know.

The Vice-Chair: Thank you very much, gentlemen. We certainly appreciate your appearance before the committee. Your thoughts will be carefully considered as we continue the hearings and also clause-by-clause in the middle of September.

This concludes the hearings for the morning. For this afternoon, we'll be back at 1:30.

The committee recessed from 1144 to 1327.

TECHNOLOGIC TIMBER LTD

The Vice-Chair: The first presenter this afternoon is Technologic Timber Ltd, and we have Mr Milan Mrakic and Geoff Pattysen with us.

Mr Milan Mrakic: Good afternoon. My name is Milan Mrakic and I'm presently the owner of Technologic Timber. I'm also part owner of Treemill Manufacturing Ltd, which is producing here in Thunder Bay.

Since the early 1950s I have been a logging contractor working throughout the forests of northwestern Ontario. For over 40 years I have derived my livelihood from the crown timber of Ontario and hope to continue for a while longer. The forests have sustained me, my family and my

business for 40 years, and I'm confident that they all will continue to be sustained into the future.

As a logging contractor I have observed numerous changes in harvesting technology. In these 40 years I can remember using horses to move timber from within the stand to skid roads; the change from Swede saw to power saw; the use of a high-lead yarding system that was more common to BC but tried in northwestern Ontario; the construction of small bulldozers to construct all-weather access roads; and brought the first Johnson skidder-forwarder into woods in northwestern Ontario. That was back in 1957. That was used to forward eight-foot pulpwood. The introduction of a skidder replaced horses in 1959, a method of moving tree-length timber to roadside to introduce the mechanical equipment to cut, limb and buck timber in the woods.

I have been an active participant in the evolution of harvesting technology in the forests of northwestern Ontario. In 1989, after touring logging operations throughout North America, I introduced the first mobile full-tree chipper to the woods of northwestern Ontario. This harvest technology continued to be utilized by my company, Technologic Timber, on the harvest operation west of Armstrong, approximately 250 kilometres northwest of Thunder Bay.

As well, I am a partner in Treemill Manufacturing, which builds from components a mobile full-tree chipper right here in Thunder Bay. This company is fully owned and operated by a Canadian manufacturer, a mobile full-tree chipper competing in the world market with American and Scandinavian firms.

The mobile full-tree chipper produces at roadside and the wood fibre from that is most attractive to pulp mills. The mobile full-tree chipper is simply the next step in the evolution of harvesting technology. Sawmills utilize a harvesting system to produce roundwood, a fibre form that is attractive to their process. Pulp mills now utilize harvesting systems that produce fibre form that suits their process of wood chip.

My primary concern with Bill 171 is the definition of "forest resource processing facility." It states that it is "a sawmill, pulp mill or any other facility, whether fixed or mobile, where trees or other forest resources prescribed by the regulations are initially processed."

Using this definition, every mechanical piece of equipment utilized in the harvest of timber would require a forest resource processing facility licence. Power saw, feller-buncher, delimbers, slashers, single and double grip harvesting and mobile full-tree chippers will require a forest resource processing facility licence. However, schedule 2, which classifies forest resource processing facilities, indicates type G or H only, while full-tree chippers are—the wording is incorrect.

The intent of definition and inclusion in schedule 2 appears to indicate that a mobile full-tree chipper will require a forest resource processing facility licence. I would request that the definition of "forest resource processing facility" be revised by eliminating the word "mobile," and that full-tree chipper classification be removed from schedule 2.

A piece of equipment working in the woods that is mobile and part of an overall harvesting system should not require a licence. If one was to pick blueberries, which are classified as a forest resource under Bill 171, with a mechanical picker rather than a manual, one would require a forest resource processing facility licence. There is no need to have additional regulation imposed on open harvesting activity in the forest when Bill 171 with its manual and supporting documentation of class E and A for timber management is more than adequate and ensures proper, consistent, sound management of the forest resource relative to any activity on crown lands.

As a small businessman I presently employ 35 people, and as an entrepreneur it must be pointed out that unnecessary regulations only impede business success. The inclusion of the forest resource processing facility definition in the present form of Bill 171, and the listing in schedule 2 of full-tree chipping will have a significant impact upon my logging operation and my manufacturing firm.

It has been stated by a Ministry of Natural Resources official that the intent of the definition of "forest resource processing facility" was to permit the Ministry of Natural Resources to control the flow of chips in the province. It was further stated that wood chips produced as a by-product of a sawmill would be permitted to be sold to a pulp mill ahead of chips produced during the timber harvesting operation by mobile full-tree chippers.

Sawmills are fixed processing plants producing lumber as a primary product and wood chips as a byproduct. A full-tree chipper is a mobile chipper, a mobile piece of equipment working as a part of a harvesting operation producing wood chips as the primary product. Why should sawmill wood chips byproduct be given preferential treatment for sale over wood chips produced by mobile tree chippers?

Marketplace will determine the most attractive wood chip through cost-effectiveness and quality. There is no need to interfere in the marketplace in a manner that imposes hardship on one businessman and provides preferential treatment to another.

Wood chips provided by mobile full-tree chippers are of superior quality and much more beneficial to the pulping process than the wood chips byproducts of a sawmill. Mobile full-tree chipper wood chips are more consistent in the size, particularly in thickness, which is a benefit to the pulp mill. The digester process does bring in natural brightness to the definition paper produced, meaning less bleach is required in the pulping process.

As well, a harvesting operation utilizing mobile full-tree chippers increases the level of utilization of wood fibre yield from the forest land base compared to the roundwood harvesting system. Greater utilization will mean increased stumpage fee revenue.

In summary, mobile full-tree chippers should not be required to be licensed as a forest resource processing facility. Harvesting activity is more than adequately regulated by the terms and conditions of the forest resource licences. Government regulations should encourage all forms of business rather than give preferential treatment to one sector. There is no need for regulations

that interfere in the marketplace. The committee should ensure that free enterprise remains the key component of the forest economy.

Mr Hodgson: Thank you for coming in today. I was wondering, Mr Chair, if we could get an answer from the parliamentary assistant or the ministry on why they've included mobile chippers. There have been very elaborate—

The Vice-Chair: Just a second while I ask the parliamentary assistant—

Mr Hodgson: I'll cede my time to the parliamentary assistant. They've been quite detailed in the description of why not to have it.

The Vice-Chair: Do you want to give an answer to that?

Mr Wood: Yes, I can give you a brief answer. We know the technological changes that have taken place over the number of years, that chipper sawmill operations were being—Great Lakes was operating them, Spruce Falls was operating them, a number of places were operating them. Then the technology went to portable chippers and sawmills were shut down all over the place.

But you also have a lot of sawmills that are still running. They're dependent on getting their chips to the market, which means pulp mills, paper mills. If you have portable chippers out there that are chipping whole trees or chipping only for the purpose of chips, you can end up with sawmills with 200, 300, 400 people employed that will have to take a layoff because sawmills were not able to sell their chips to a pulp mill or paper mill or whatever. So you end up with one operation shutting down at the expense of another.

1340

There's got to be a balance somewhere along the line to be able to achieve that you get the maximum employment with the resources that are out there without one operation affecting another one.

I think it's the technological change that has come forward, that we have portable sawmills now. You can move a whole sawmill basically in a 24-hour period from a land mass to another land mass. You have portable chippers that you can do the same thing with, and large numbers of them, but you didn't have them when the timber act came in in 1952 or in 1926.

There are technological changes that have come, and all we're doing is updating the legislation of 1926, which was updated in 1952. Now we're updating it to the technology that's out there and the equipment that's out there.

We can give you a further answer next week in Toronto.

Mr Hodgson: Thanks. That's my only question. If you gentlemen have a comment, that's my time.

Mr Geoff Pattison: I'd just like to make one comment relative to sawmills shutting down. We're familiar with northwestern Ontario. Full-tree mobile chippers were introduced here in 1989 and came into full operation in 1990. I'm not aware of any sawmill in northwestern Ontario that has been shut down due to an oversupply of chips produced from full-tree mobile chippers. I'm

speaking from my perspective in northwestern Ontario. It may be in other regions it possibly has happened, but since the introduction of the mobile full-tree chipper, there haven't been excess chips on the market.

The Vice-Chair: It's your turn now anyway.

Mr Wood: Just a further comment on that: Northeastern and northwestern Ontario, the flow of chips back and forth to pulp mills, paper mills—I'm talking about the Hearst area, the Kapuskasing area, the Cochrane area—there have been operations that have been curtailed as a result of mountains of chips that were out there and sawmills have been told: "Look, you cannot stockpile chips any longer. It's a fire hazard. It's a danger, and you're going to have to shut down your operation or go to a one-shift operation and find a market for the chips."

Myself and Bud Wildman were on the phone, numerous long-distance calls all over the place, trying to get some people who would say, "Oh, yes, we'll take a few truckloads of chips," and try to keep the sawmills running so that we didn't have massive shutdowns and massive layoffs. I'm talking about 1990 and 1991 this was happening.

Mr Pattison: However, the villain in this particular case is not mobile full-tree chippers.

Mr Wood: I guess I have a little bit of time. I just want to go a little bit further. You're saying you're operating on a primary licence?

Mr Pattison: It's a third-party licence of Avenor, the Caribou east management unit.

Mr Wood: I just want to go back a little bit. You were saying you started up in 1989 and 1990, so it was about a year and a half after Great Lakes shut down its sawmill operation?

Mr Pattison: The operation on that particular area conducted by Technologic Timber commenced in 1987. It was in 1989 that the full-tree chipping operation was the method of harvest in that particular locale.

Mr Wood: Okay. I'm just trying to get in my mind the change that was taking place, because it was relative to free trade and the 15% tariff in 1987. There were a lot of pulp and paper companies that said: "We're getting out of the business. We're shutting operations down." As a result we ended up with a chipping operation to supply their pulp mills.

Mr Pattison: From 1987 through until 1989, Technologic Timber primarily produced sawlogs for sale to sawmills. That area had been declared surplus. There was no need for roundwood from that particular area. In fact Mr Mrakic in 1989, as he pointed out, brought the first full-tree mobile chipper into the forests of Ontario, and it was, as you are aware, an advance in technology.

He created basically his own market for chips at that point in time, and it was based on the success of his operation that Avenor more or less embarked upon its overall conversion from a roundwood operation to the present situation where they're relying more heavily on wood chips from the forests.

Mr Wood: In your presentation you were talking about the quality of chips of sawmills versus the quality of chips from chipping operations in the bush. I worked

for 30 years in the paper mill, 20 of those years as a millwright and eight years as a tester, testing the chips when they were coming into the mills, testing the product that was going out as far as brightness, as far as quality, strength, all of these qualities were concerned.

Unless something has changed in the last four or five years since I got elected as a member of Parliament, chips coming from sawmills produce good quality strength kraft and they also produce good quality strength newsprint, and they do it in northeastern Ontario.

Mr Pattysen: There are three components. Basically the chips produced from the full-tree chipper utilize what is called a disc chipper. They have three components.

First of all, they can provide a consistent thickness, and if you have consistent thickness in the digester process, it makes for a much more even cooking, as the chemists tell us. The majority of sawmills utilize chip-and-saw pieces of equipment. They are rotary saws that take off a shaving at one end and bring it up to thickness, so they are not a constant thickness from one end to the other, whereas disc chippers are.

The other component of quality would deal with the juvenile wood versus the older wood. The older wood is in the centre of the tree. Chips from sawmills are the juvenile wood. They are the outside of the slabs, which is the faster-growing. They are a larger cellular configuration and they don't provide the right mixture in the cellular configuration aspect of it.

The third component deals with the brightness aspect of it. Traditionally a roundwood system will stockpile wood in the bush, it'll stockpile wood in the mill yard, and there's a time frame lapse anywhere from a month to six months before that particular wood gets into the pulping process.

The full-tree chipper is a hot logging operation generally from the day it's cut until the day it enters the digester. It could be anywhere from one day to seven days. It's fresher. When it's fresher, it maintains its whiteness and the product that's produced is much brighter, meaning that there is less bleach required to bring it up to that higher quality of paper.

Those are the three main areas where quality is significant.

Mr Wood: There are a number of operations that are finding ways of getting around that as well. I know the sawmills at Hearst have cranes that are about 75 feet in the air, and they can pile their wood to the point where they can keep the frost in the ground 12 months of the year so that at the bottom of the piles they have the fresh wood. It's very similar to a chipping operation because the wood is basically frozen all year round. There's technology, and I guess the equipment is very expensive to buy.

I'm just pointing out that when you go out and visit, as I have and Howard Hampton has done, you see the different operations that there are. Northeastern Ontario and northwestern Ontario have a different way of operating, from what I can understand right now, as a result of a number of changes I guess.

Talking to some of the people in the labour movement,

one of their problems started back in 1974 when there was a strike and the strike never did get resolved, and it ended up with a lot of independent operators and a whole change of the woodlands operation, independent, more DCLs and independent loggers out there. Those are basically my comments if you want to comment further on that.

Mr Ramsay: You bring up what is a tough problem that we're really going to have to deal with. I'm from the northeast, and I probably see it a lot more than you have in the northwest here, this imbalance of how we extract the wood fibre when we've got a surplus of one form of chips that comes as a byproduct from lumber operations and the mills directly harvesting roundwood for chipping purposes.

As I crossed the highway to go to lunch today and as I came back, there was a Grant's Transport truck from New Liskeard hauling chips from the Elk Lake Planing Mill 60 miles west of New Liskeard all the way to the local mill here. I guess what's changed is our sense of how we use the bush. In the old days there was a lot of waste. As you know, now with modern equipment there's less waste, but we also want to use all the tree so we chip up what's left. So we have this surplus, and I guess the thing is what do we do with it.

1350

I don't think it's all that bad. In the situation usually what happens it's fairly well in balance, but if there's a strike at E.B. Eddy in Espanola, for instance, then the mills north of there in my area and further north into Mr Bisson's and Mr Wood's ridings can't send their chips that way. Or, if there's a strike up their way, again the chips are blocked and then it starts to shut down.

We just want to find that balance, and I guess you're caught in the middle a little bit as you're a jobber for Avenor here. But I think we can get a balance. I mean, whether we should be trucking chips all the way from Liskeard to here, I don't know if that makes sense, but I guess that's happened because the pressure is on from MNR and I suppose the Ministry of Environment to get rid of those piles and to get them used.

It's something we're going to have to work on together, and as the parliamentary assistant says, we're going to have to try to find a balance, I guess, so that everybody has their share of the bush and we use the fibre in the highest value way we can. I don't think there should be any real dramatic changes to this, but I think we're going to try to even out the work throughout northern Ontario so everybody can share the resource and use the resource on a sustainable basis. I understand your apprehension, though, because I guess some changes are probably going to come as a result of this. I wouldn't mind hearing more about this from you, for sure.

Mr Pattysen: On the particular instance that you just talked about, of the chip truck coming in from Elk Lake, I believe that in itself is finding its own niche in the marketplace. If the chips were of poor quality or if they were too expensive, I'm quite positive you wouldn't have seen that particular truck at lunchtime. Once again, I think it just comes down to the fact that the marketplace will determine the best destination for wood fibre.

Mr Ramsay: But if you've got a pulp operation that through its collective agreements, whatever, or through its contracting can harvest wood at a very good price, that's very competitive to the byproduct of the sawmills, do we allow the sawmill to keep piling up these chips when there's no market for them? I don't know how we do it, because I believe the marketplace should be working and I'd rather not see the government interfere in that.

But I just wonder, we do get into circumstances, as the parliamentary assistant has said, where you get a surplus of chips at a mill that means the mill has to stop, because there's enough cash tied up in those chips that they can't go on. They're not getting the full cash flow from their product. I haven't seen any problems lately, but there were problems back a few years ago and it sometimes happens if there are shutdowns we get problems. Maybe the problem today isn't as big as it once was. Maybe the marketplace is starting to adjust.

The Vice-Chair: Mr Brown has a question too.

Mr Brown: Conceptually I'm having a lot of difficulty understanding this. The limits you're on are Avenor's—

Mr Pattyson: That's correct.

Mr Brown: —and if you weren't using the mechanical chipper, you would be taking that wood to the mill and they would be chipping it.

Mr Pattyson: Initially that would have been the situation. However, their future they've decided as being entirely with bringing fibre in chip form.

Mr Brown: I understand that.

Mr Pattyson: If we wish to continue to sell our product in the fibre form of chips, then basically we're locked into the situation we're in right now.

Mr Brown: I understand your position. All I'm saying is really what you've got is just an extension of the plant, so to speak, an extension of Avenor's processing plant, because now they're only taking chips, the chips are being processed elsewhere to go. You're just a middleman. I think I'm on your side. I'm starting to wonder why it's necessary to license you. The fibre would be going there anyway. That's why it's there. You're not chipping trees over, say, eight inches in diameter, or are you?

Mr Pattyson: Incorrect. We are, given the marketplace as it presently exists in Thunder Bay, putting all timber through a chipper at the present time.

Mr Bisson: All timber?

Mr Pattyson: At the present time, given market conditions in Thunder Bay, we are putting all fibre through the full-tree chipper.

Mr Brown: How large a tree can—

The Vice-Chair: I think Mr Mrakic wanted to respond as well. Did you want to respond?

Mr Mrakic: Yes, I'd like to say something. I am chipping in Quebec now. I have a chipper in Quebec, working for a company there. My chipper has landed right inside the lumber mill. What they're doing there, they're hauling in double trucks of wood from the bush. They give one load to us, which is from eight inches and

down. And there is another truckload that goes right in and goes to the mill, and they're bringing all the trucks from the mill out to our chipper.

I said, "Why do you do that?" because we don't want to chip their tops; it's very hard. "Well," he said, "Your chips are much better, uniform. The companies like it better." We must be doing something right.

Mr Brown: So how big a tree can the chipper handle?

Mr Pattyson: Twenty-three inches.

Mr Brown: Up to 23 inches.

Mr Pattyson: Yes, that's maximum. And basically, you indicated that Technologic Timber is operating 250 kilometres as the crow flies; it's probably closer to 300 kilometres as the truck drives. Given the market conditions in Thunder Bay for equivalent volumes of fibre, a chip will bring 20% more revenue for 10% less cost, or 10% more cost when compared to a saw log.

Mr Brown: Do I have any more time?

Mr Pattyson: And that's a situation that's peculiar to northwestern Ontario.

Mr Brown: Essentially, though, the fibre is moving the way it would move otherwise. Is that what I'm hearing? They need the chips—

Mr Pattyson: That's correct.

Mr Brown: Those chips would be going into their limits.

Mr Pattyson: That's correct.

The Vice-Chair: Thank you very much for appearing before the committee. Obviously this seems to be a rather interesting operation, something new.

The next presenter is Mr Mike Quince, but I'm told he's not here yet. Is Mr Mike Quince here?

The presenter who was scheduled for 2:30 has cancelled, and so has the presenter for 3 o'clock. However, we did have Iain Angus scheduled for 2:30, who was to appear on Thursday and asked whether he could appear today. I just saw him and I'm not quite sure whether he might be ready to make his presentation.

Clerk of the Committee (Mr Franco Carrozza): We will need a few minutes to bring the screen down, and the projector.

The Vice-Chair: He will make his presentation now but he needs a few minutes to set up a projector. So we'll adjourn for 10 minutes. We'll be back in 10 minutes.

The committee recessed from 1359 to 1414.

IAIN ANGUS

The Vice-Chair: The committee is in session again and we're continuing our hearings. I'm pleased to say that—

Interjections.

The Vice-Chair: Could we have some order, please. I'm pleased to say that Mr Iain Angus, well-known representative of the north, has agreed to come before us today rather than the originally scheduled appearance on Thursday. I'm also glad that you were able to move your presentation up, since we do have a vacancy. You know what the process is: 30 minutes, with the usual questions

and answers. So go right ahead. I guess we up front will probably move a little bit to the side, since I see that you want to use some of the modern equipment here.

Mr Iain Angus: Mr Chairman, members of the committee, I appreciate the opportunity to address you today. What I want to do is not talk about the sustainability of forests, but to talk about the sustainability of transportation, because without transportation, regardless of what legislation this committee may send back to the Legislature, we may not be able to get those trees out of the forests or the processed fibre to market.

I've spent a fair bit of time over the last six months looking at the whole issue of transportation, particularly by rail, across the north. I've been working on a specific rail line abandonment on behalf of the Buchanan group of companies and Avenor Inc, which used to be Canadian Pacific Forest Products, dealing with the abandonment of the Graham sub. As a result of that and some work that I did for the government of Ontario on the merger, I developed a new sense of understanding of the relationship between where the rail lines are, where the forests are, where the mills are and where the markets are that I think this committee would find certainly interesting and I think valuable as you weigh the various suggestions and pressures from mills and communities but, at the same time, tie it into the ability to move that fibre from where it starts to where it has to be sold.

I've got a map of the north. I'm wondering if somebody could grab the front set of lights and dim them a bit. The numbers on the screen represent the location of mills across the region: pulp mills, paper mills, sawmills. The blue lines that you see are the CN lines across the north, including the Graham sub, and what's called the Hillsport sub, which is the connection between Longlac and Nipigon on to Thunder Bay, and then the CN line, which will eventually be their only main line through Fort Frances on to Winnipeg, with the interconnection down to Duluth.

CP, on the other hand, is the red line, starting in Winnipeg, double track to Thunder Bay, then across the top of Lake Superior and on through to Sudbury. You also have Algoma Central, which will soon become, if it's not already, Wisconsin Central's operation as a short-line development.

You also have the interconnection between the CN and CP lines at Manitouwadge. However, the CN connection has been approved for abandonment by the National Transportation Agency and the CP line will probably follow suit once the Geco mine closes, which is destined to happen in a couple of years.

What I want to do is to try to indicate to you the kind of relationship there is between the various lines and the wood fibre. I want to use as an example the Buchanan group of companies' mill at Hudson, shown as number 5 on the map. Now, that mill, in some part, gets its roundwood from the area between Armstrong and Hudson, as well as within the basket within that area. Their finished products go out by rail from Hudson to Winnipeg, and then down into the United States market.

Now, they also produce chips as a byproduct. As we've recently come to realize, the relationship between

the pulp and paper operations and the sawmill operations has never been closer because of the need to use as much of the fibre as possible. In fact, in some of the mills there is no waste any more. Whether it's the lumber they produce or the chips that are the byproduct or the sawdust, shaving and even bark, they all are used somewhere, usually not at the location where they're processed.

The chips, for example, from Hudson have gone and will go to the following locations: to the Dryden Avenor mill, to Avenor in Thunder Bay, to Terrace Bay—although you'll be interested to know that to get those chips to Terrace Bay, CN takes them to Winnipeg, down to Fort Frances and back through Thunder Bay and across the top of Lake Superior. There are also chips that have gone to Red Rock—I think I'm getting this right; it's hard to read upside down—to Boise in Fort Frances, and then the Abitibi Mission mill in Thunder Bay.

So you can see that from one sawmill in a fairly isolated part of northern Ontario, you've got a lot of interconnections, both in terms of the other operating pulp and paper mills, but between the rail lines.

1420

Now, I mentioned that some of the chips go from Hudson to Terrace Bay by rail. They're also trucked from Hudson to the Avenor mill in Thunder Bay. I want to explain the reason why the two approaches.

Under the hours-of-work regulations for the province of Ontario, the maximum legal drive time in a day is about 12 hours. The Hudson mill is on good road, from Hudson to Sioux Lookout down to Thunder Bay, and you can do it legally, there and back, one shift. On the other hand, if you're going to Terrace Bay, even if you were coming direct as opposed to the roundabout way, you'd be into two drivers, and that adds that much more cost to the cost of the chip.

On the other hand, in that same area, and this ties into the Graham sub question, if one was hauling—where are we here?

Interjection: Turn it over.

Mr Angus: Turn it over. Okay. Turn it over. Turn it upside-down? All right. Maybe that's why I'm a consultant now rather than an MP.

You'll notice this line here. That's roughly the limit of the hours-of-work regulations if you're working out of Thunder Bay and hauling roundwood from the area north of that line, because at that point you're off a main highway, you're off a secondary road, and in a lot of cases you're off the primary logging road, so you're down to something like 10 kilometres an hour in terms of speed. So that's as far as you can go in terms of trucking unless you want to get into a second shift and a 24-hour operation. As Avenor found when they did an experiment up in this area, the weather works against you. It may work okay on paper, but once you get into bad weather and things get delayed, you end up having to shut down for two or three days in order to get the cycle back in place. So everything above that point needs to come by rail—or, I should say, a combination of truck to rail. You've got that mix as well. That's one example.

Let me take a look at the Sapawe mill down here near

Atikokan. Its chips go to Fort Frances and to Avenor in Thunder Bay.

Now, Buchanan's got two operations in Thunder Bay, Northern Wood and Great West. A lot of their chips just go across town to Avenor's mill or to Abitibi's mill in Thunder Bay, but they also go to Domtar, they also go to James River Marathon, those two.

Farther along you've got Dubreuilville, which is number 14. Its chips go to James River on the north shore. Over even farther, and I guess it's off the map, is Gogama Forest Products and Haavaldshrud which supply chips to Thorold, a fairly significant quantity.

In addition, you've got mills at Longlac that primarily ship out their finished products, or will once the Longlac mill gets up and running, assuming it does. They will go out by rail. Most of the finished products from the northern sawmills can only go out economically by rail. If you get into small quantities by truck on a continuous basis for long hauls, you just can't do it. It's just not economically viable.

So you've got a relationship between the northern line and the southern line, so if you lose one, you affect the viability of the remaining mills on the remaining line.

The other aspect that I wanted to draw to your attention is the real interrelationship between the forests and the mills, the sawmills and the pulp and paper mills, more than we've ever seen before. It's almost like the Buchanan operation has taken over what on the federal scene we would see the western grain transportation agency do, which is to control the movement of grain from the farm gate to the elevator in Thunder Bay, to make sure there is sufficient volume at each of the elevators that's been assigned from the appropriate source so there's some balance. Buchanan has been providing that kind of function among the whole region, a function that normally would have been done by government, but they filled a niche.

I guess the key thing I want to point out is that when you look at the legislation that's before you tested against the sustainability of transportation, don't look at it in isolation of just the forests, but if you want to have a viable forest industry you've got to have the ability to move those products in an effective, efficient way that is appropriate for the producer. Because keep in mind that the bottom line is that the only person who sets the price is the market. The lumber manufacturer doesn't set the price, the guy who cuts the tree doesn't set the price, the pulp and paper mill doesn't set the price. It's the market that does. The only thing that you control is the input costs, and so that has an overall impact on the viability.

Mr Chairman, that's probably where I should stop, and it would probably be a bit more productive for me to respond to questions. I'll take it from you whether you want me to leave the slide up.

Mr Bisson: Thank you very much, Mr Angus. I take it what you're saying is that you have some fears in regard to the sustainability of those operations vis-à-vis the abandonment. Is that what you're driving at here?

Mr Angus: Yes. For example, the McKenzie Forest Products mill in Hudson, the Buchanan group of com-

panies and Avenor have filed an appeal with the federal cabinet to ask for a variance in the abandonment of the Graham subdivision beyond the September 1 abandonment date because of the fear that if the northern line is abandoned by CN at some point in the next six months to two years, as they continue the rationalization, then that mill would be left without any rail access at all, whereas if the Graham sub was kept in place, at the very least there would be an opportunity to move their finished goods from the Hudson mill to market.

Mr Bisson: The Graham sub is the one from Thunder Bay up to Hudson?

Mr Angus: That's correct.

Mr Bisson: So what you're saying is that the cost of shipping the chips would increase to the point that it would really affect the viability of the mill itself.

Mr Angus: Yes. But also in the context of the northern line, the cost of shipping the finished product, the lumber that mill produces, would be beyond what the market is prepared to pay, and therefore that mill would not be viable. The same thing applies to Weldwood in Longlac, when they indicated to me that without that rail connection between Longlac and Thunder Bay, they don't believe they could survive to place their product in the US market having to truck it, or a combination of truck to rail in Thunder Bay or Nipigon, where you've got the additional handling costs.

Mr Bisson: I take it you're not asking to address that in this legislation, though.

Mr Angus: I don't think you can. I think that as you review the elements of the legislation, you keep in mind the relationship with transportation, but also as politicians that you keep in mind the importance of the rail system—and not just in the north, and I mentioned the connection to Thorold; there's an interrelationship to southern Ontario as well—in other aspects of your work.

1430

Mr Bisson: Pardon me, but being from northeastern Ontario, I guess I'm not reading the northwestern media, but are people concerned about this? Is that a public discussion? I know the discussion through what I hear through northeastern Ontario about the abandonment, but it's not quantified in any way like you have today.

Mr Angus: Two weeks ago, at the end of July, I hosted a conference here in Thunder Bay where representatives from about 22 to 25 different communities, a number of forest companies, economic development offices and unions came together to deal with the subject of what at that time we thought was a merger—that's certainly the rationalization—and they've created a cross-regional committee that will be looking at the whole question of the rail issues to, quite frankly, put forward a request for a national transportation policy related to the region but with a moratorium of any abandonments until such time as that's in place.

So the quick answer is: There is a lot of concern certainly at this end. I think when you look at the map, most of the lines in question are west of Sudbury, at least in the public view, although the reality is that we could end up with one line connecting northern Ontario and

southern Ontario. So two out of the three that currently connect the north to the south would be gone. That's entirely possible.

Mr Bisson: Has it been quantified in any kind of way, if the northern line was abandoned, not only railway jobs but what jobs would be at stake in the forestry industry? Can you quantify that in any way?

Mr Angus: I don't have it with me, but certainly we've quantified, for the purposes of the Graham sub, the job loss in Hudson. If that mill were to close, we're talking, direct and indirect, about 1,200 jobs. If Northern Wood Preservers, which is the one that's linked to the Graham sub, and Avenor's A-kraft mill were to close, we're talking in the magnitude of 2,000 jobs.

The government of Ontario, through Northern Development and Mines, is in the final process of having a consultant complete an assessment of the economic impact of both lines. I'm told that is going to be out within the next few days or the next week or two; it's that close to completion. That will give us an idea of the numbers both jobwise and also in terms of revenues for governments—provincial, federal, municipal—revenues and expenditures related to the lines.

The Vice-Chair: I must say it's a bit tough for me here to hold back as Chairman, because I also happen to be Transportation critic for my party, but I'm strictly non-partisan today.

Mr Angus: You can always ask the committee for disposition.

Mr Michlash: Iain, thanks for the information you brought forward here. You mentioned your cross-regional committee, and that's something that I've taken a little interest in. I was just wondering if you could maybe expand on that in terms of its makeup and where it's going from today. What is its next step?

Mr Angus: In terms of its makeup, we've done a fairly good job of making sure that we've got people from the west, the centre and the east. I had two individuals, Ed Hoshizaki, from the Sioux Lookout economic development office, and Bob Krause, the reeve of Schreiber, act as the unofficial nominating committee, and they went through the group. We had about 70 to 80 people who were there. We got people from Sudbury, Capreol, Hanmer, Hornepayne, Schreiber, Thunder Bay. The mayor of Dryden will represent NOMA. The president of the Northwestern Ontario Associated Chambers of Commerce either will be on it or we'll have somebody from the chambers. We've got the rail unions well involved: BLE, UTU, CAW and—I'm missing somebody. I can't think of the other one offhand, but it's a good cross-section, non-partisan. They will be holding their first meeting in Thunder Bay this coming Monday.

Now, coming out of the conference, they established the group itself, their priorities. Their first priority was the need for a national transportation policy that reflected the needs of this region, and that's their first goal. The second goal is research: They've got to understand what works, what doesn't work. I'd say their bottom line is to make rail more viable in the north. They're not a group that wants to keep it for the sake of keeping it, because

it's nice to have, but they recognize the need for a viable railway operation. The third thing they wanted was a moratorium until such time as this work has been put in place. They were really fearful that, with all good intentions, they just wouldn't have anything to work on.

Mr Brown: This is, of course, an issue in the north-east too, where I'm from. All you have to do is talk to our friend Frank Mazucca in Capreol and you'll know that it's an issue.

Iain, have you done any work on what kind of costs it would be to the forest industry? You've told us that it would take two drivers. In worst-possible-case scenario, what would this do to the competitiveness of these mills? Obviously, the transportation is going to increase—maybe not obviously, but the transportation may increase, and that would impact on their viability. What kind of cost increases do you see?

Mr Angus: I honestly can't answer that. I only have anecdotal information beyond the work that I did for Avenor and Buchanan to take a look at the relationship between the Graham subdivision and their operations. But just from that, Avenor indicated that one third of their fibre will have to come from the area that's served by the Graham sub. Buchanan, on the other hand, indicated that one half of the fibre that it needs for its Thunder Bay operations will have to come from that area. That's why they indicated—they weren't my words—that Northern Wood was in jeopardy and that the A-kraft mill at Avenor was in jeopardy if they could not get the wood out of that area at a price that fit into their overall financial package.

But secondly, my understanding of the report that's being done by the Hackston Firm out of Ottawa for MNDM is that they have discussed with the forest companies those kinds of specifics. It's a very technical document, focusing on the financial side, and I gather that it will answer that question in a very straightforward way.

Mr Brown: If I understand it right, the decision has been taken to abandon this line, and it's now under appeal?

Mr Angus: That's correct.

Mr Brown: That's correct?

Mr Angus: Yes.

Mr Brown: Are there any discussions going on in terms of a new railroad to take the place of the existing one, a short line, so to speak, maybe an Algoma Central sort of approach or whatever?

Mr Angus: There is one firm in Thunder Bay which has already written to CN indicating that it wants to begin the process of negotiating the acquisition of the line. There's a second company, again locally, which is considering whether or not it wants to spend some money looking at the option. Certainly, I have had indications from two of the rail unions that they would be quite willing to sit down with whoever was going to purchase that line and hammer out a collective agreement that made sense for that particular operation. In fact, our appeal to cabinet in part hinged on buying time to find a short-line operator.

Mr Brown: You just mentioned the forest companies in this, but there would obviously be some mining interests here?

Mr Angus: No.

Mr Brown: Not obviously?

Mr Angus: One of the reasons the line is being shut down is because the Mattabi mine has gone out of business because it's exhausted its ore body. In checking with the regional geologists in both Thunder Bay and Sioux Lookout, they indicated that the likelihood of any kind of base metal development in the next 20 years was pretty slim, so we decided right off the bat not even to pursue that any further and just recognize that we're in the wood game and that's the only one that's there that relates to the line.

1440

Mr Brown: I know my constituents would be most happy to get most of the forest products moving by rail rather than driving down Highway 17. I wish you luck.

Mr Carr: Thanks very much for your presentation. I was glad to see that you're working hard and getting some things done. I was, as you know, looking at the situation. Having been involved in politics, you'll see how things interrelate. You've got one industry that was suffering, the railways, so they took some options that then spin on down and affect everybody else.

Looking at this, do you think there is a plan that is going to be able to come about with all the players involved that is going to make it so that, first of all, the railways are viable, because they need to remain to do it? Are you convinced that there is some type of plan out there that can be done that can make sure that all the players remain a part, because as we see here, it's so vital to all the communities up here? Are you optimistic that there's going to be some type of agreement that we can come up with?

Mr Angus: Let me respond this way: There is no plan today. The only plan that I've seen is just the desire of the railway companies to reduce their operating costs, to relate to the reality of their bottom line. I could get into a good debate with them about whether they're including the right things and whether they're really losing as much money in eastern Canada as they say they are.

I think, though, that we really do need a national transportation strategy that puts all the players together and says, "Okay, we've got rail, we've got road, we've got marine. What's the best use for each of these modes as it relates to cost-effectiveness for the users? What's the best in terms of the environment, in terms of energy?" and work out a federal-provincial package that will emphasize the right things at the right place. Truck has a legitimate role to play. In the bush operations alone, that's the only game in town. For long haul, I think rail makes more sense. And then marine: We're still a thriving port here, but we could be doing a lot more than we're doing today because of some of the shifts at the federal level and international level.

So I guess the only message I can leave you with is the need for a national strategy. Ontario can't do it by itself; it's just one player. The federal government really

can't do it by itself, because it doesn't have total jurisdiction. The feds gave up trucking a number of years ago to the provincial level and in effect lost control of that aspect of it, plus the highways are controlled by the provinces. So until you've got an integrated system, you're going to have these kinds of pressures and problems.

Mr Carr: One last question as it relates to the Ontario government. As you know, there are probably a lot of ministries that are involved in this process. I would assume it would be the Ministry of Transportation that has taken the lead role, but which ministries are you working through? Where do you see the Ontario government? Who's going to take the lead in helping you work this out?

Mr Angus: There are actually a number of players. On the Graham sub, relative to the intervention before the MTA, the Ministry of Transportation was very, very supportive. They participated in the hearings jointly with Avenor, Buchanan, the town of Sioux Lookout, the city of Thunder Bay and others. Subsequently, once we appealed, MTO filed its own appeal with the federal cabinet. That has been of great assistance.

At the same time, the Ministry of Northern Development and Mines has entered into the economic analysis, much like MTO entered into the community consultations which I did on their behalf throughout the north this winter, and then again through Frances Lankin's ministry—and I've lost track of what the labels of some of the ministries are these days—there's a task team based in that organization that is working to facilitate the creation of short lines. So it's a multilayered activity but it's coordinated.

Mr Carr: One last question too. Your contacts in Ottawa, are you hearing any feedback on what the decision will be from the cabinet? What is a date that they're looking at for getting a decision? Do you know?

Mr Angus: Let me answer that last part first. They have to render a decision by midnight on August 31, because on September 1 CN starts ripping up the tracks. That's their deadline. Cabinet meets on the 30th. I met with the Deputy Minister of Transport a week and a half ago, and my sense is that we may in fact get a favourable response. We're not going to get a three-year extension, but we might get some time in order to put a short line together.

Mr Carr: Okay, good luck.

The Vice-Chair: Do you have a question, Mr Hodgson?

Mr Hodgson: You mentioned the connection between rail, road and marine. It's been suggested that the north needs four-lane highways. Would that alleviate some of the rail, as you see it? What's the connection there, in your opinion?

Mr Angus: The desire for four-laning of the Trans-Canada in particular sections has more to do with the perceived safety of the travelling public than any economic spinoffs. The highways are not cluttered, they're not congested like they are in southern Ontario, except from 3:30 to 5:30 on summertime weekdays. That's about the

only time you see any congestion. It's a question of safety; it's a question of security.

There are a number of parts in the north where Highways 11 and 17 are together. As Mr Miclash will recall, when Kenora was shut down and the Trans-Canada was shut down a number of years ago because of a PCB spill, there was no alternate Canadian route, because it was a single corridor. We've got sections on either side of Thunder Bay where that's the case, and those are the areas that are being twinned. That makes sense to ensure that we can always move Canadian goods within Canada and not have to rely on transportation through the United States, where we're subject to non-tariff action.

In terms of the relationship with rail, I don't think the limited four-laning that's happening at this end will have any impact at all, because again you're in the short-haul areas. You're always going to truck from Nipigon to Thunder Bay if it's a wood product from a plant to a plant. You'll rail from Nipigon to the final market, because it's a long haul. It just makes sense. But in the Highway 69 area, that, I suspect, will have some impact,

make highway transport a bit more attractive than rail, continuing the progression that's occurred over the last 10 or 15 years.

Mr Hodgson: Thank you. I appreciate that.

The Vice-Chair: Thank you, Mr Angus, for giving us a different perspective. It all has to do with sustainability, I guess. We certainly appreciate your appearance at this time and the perspectives that you've brought to this bill and to our discussions.

Mr Brown: He was our first consultant, I think, and certainly our first one with audiovisuals.

The Vice-Chair: The first consultant with audiovisuals. Thank you very much. Now, let me ask again, is Mr Mike Quince here? Since I hear no one respond to this name and the two other presenters have cancelled, this meeting now stands adjourned until tomorrow, 8:30, I'd like to remind the members of the committee, in Fort Frances. The minister will be making a brief presentation.

The committee stands adjourned.

The committee adjourned at 1448.

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**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South/-Sud ND) for Mr Wessenger

Carr, Gary (Oakville South/-Sud PC) for Mr Arnott

Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson

MacKinnon, Ellen (Lambton ND) for Mr White

Miclash, Frank (Kenora L) for Mr Sorbara

Ramsay, David (Timiskaming L) for Mr Grandmaître

Wilson, Gary, (Kingston and The Islands/Kingston et Les Îles ND) for Mr Mills

Wood, Len (Cochrane North/-Nord ND) for Mr Morrow

Also taking part / Autres participants et participantes:

Wood, Len, parliamentary assistant to Minister of Natural Resources

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Yeager, Lewis, research officer, Legislative Research Service

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of Ontario**

Third Session, 35th Parliament

**Assemblée législative
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Troisième session, 35^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 24 August 1994

**Journal
des débats
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Mercredi 24 août 1994

**Standing committee on
general government**

**Crown Forest
Sustainability Act, 1994**

**Comité permanent des
affaires gouvernementales**

**Loi de 1994 sur la durabilité
des forêts de la Couronne**

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 24 August 1994

Mercredi 24 août 1994

The committee met at 0836 in La Place Rendez-Vous, Fort Frances.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Vice-Chair (Mr Hans Daigeler): The standing committee on general government will continue its hearings on Bill 171. Today we are in the beautiful city, with beautiful weather, of Fort Frances and we have the pleasure early in the morning to hear from the Minister of Natural Resources, who I understand is also a native Fort Frances boy.

With the agreement of the committee, the minister will address the members now. At 9 o'clock there's supposed to be a presentation, but there's some question at this point as to whether the mayor will be here or not.

Clerk of the Committee (Mr Franco Carrozza): The mayor is not coming.

The Vice-Chair: What is the committee's wish? The mayor will not be coming at 9 o'clock, so if time is needed we can give the minister and the members of the committee until 9:30. Is that agreeable?

Mr Gilles Bisson (Cochrane South): I think we should treat all presenters the same way, 30 minutes.

Mr George Mammoliti (Yorkview): The minister isn't any more special than anybody else.

The Vice-Chair: I accept the wishes of the committee. The minister may start and then we'll see afterwards.

Mr Chris Hodgson (Victoria-Haliburton): Friends, eh?

Hon Howard Hampton (Minister of Natural Resources): Yes, I have a lot of friends in high places.

The Vice-Chair: Welcome to the committee anyway.
MINISTER OF NATURAL RESOURCES

Hon Mr Hampton: Welcome to Fort Frances, everyone. I understand that the weather is going to improve and, as the afternoon comes in, you'll probably want to shorten the sessions even more. So I understand the motive of some of those who don't want to start off with a 45-minute or one-hour session.

Let me welcome everyone to Fort Frances. This is indeed where I grew up and where I still make my home. I'd like to thank everyone for giving me the opportunity

to say a few things about the Crown Forest Sustainability Act at this point.

I think you have heard a fair amount already and that you are already tackling some of the very difficult questions that the ministry has wrestled with for, I would say, most of the last five or six years.

What this act says is that we are clearly committing ourselves to implementing sustainable forestry. Sustainable forestry won't be implemented overnight. In my view, that is a moving concept. We are clearly committed, however, to improving the forest practices of the province to make them the best there are in North America and, just as important, we are clearly committed to ensuring a sustainable forest industry, sustainable communities and sustainable jobs.

I think the act is a major step forward for Ontario in terms of implementing sustainable forestry. The act presents a new vision for forest management in Ontario, a vision that looks at the whole forest. As I said, it's a concept that the Ministry of Natural Resources has been struggling with, I would say, for at least the last six years. The forward-looking ideas in this act flow from the work that was done to develop the Policy Framework for Sustainable Forests. That policy framework is based on the work and recommendations of the comprehensive forest policy panel and its report called Diversity. I suspect that many of you have seen a copy of Diversity or you've read it.

In developing Diversity, the panel heard from 3,000 people across the province. These people took the time to provide their insights into where forest management should be going and the time to express their concerns. It was a valuable exercise in consultation that helped produce an important set of recommendations. I've heard from many people since the development of the Diversity report. They've said over and over, "It is time to stop consulting and to begin delivering on the ideas people have given us for improving forest management." We're trying to do just that now with this legislation.

I want to talk a little bit about what it means to grow up in communities that are dependent on the forest. If you look at northern Ontario, about 50 communities depend on forest industries for their economic stability and 29 of these are highly dependent. This would be a highly dependent community. From Lake Nipigon west to the Manitoba border, communities like this one, like Dryden, Red Rock, Vermilion Bay, Atikokan, Kenora, Sioux Lookout, depend on forest industries. In the area from Lake Nipigon to the Manitoba border, there are four pulp mills, seven paper mills, six large sawmills, a panel

board mill, a particle board mill, 86 small sawmills and a veneer mill. Quite amazing—just between Lake Nipigon and the Manitoba border. More than 60,000 jobs from Thunder Bay west are tied to forest industries. Many more jobs spin off from those tied jobs.

Let me give you an idea of how that breaks down: There are 9,900 direct jobs in logging, 3,300 jobs in lumber, 4,000 in forest products and 43,000 jobs in the pulp and paper industry. Together these forest industries pay out more than \$2.1 billion in wages in northwestern Ontario. The economic output of these forest industries is significant for this part of the province and it is significant as well when you look at the whole provincial economy.

Each year forest industries from Thunder Bay west to the border produce more than \$5.3 billion in forest products. This makes up just under half of the \$12 billion the forest products industry produces across the province for our economy, across Ontario more than 200,000 jobs.

As I mentioned earlier, nearly 50 communities in northern Ontario depend on forest industries for their economic health and the forest industries are important for Ontario and Canada in the global marketplace. Some of the situations that have occurred in British Columbia illustrate that, I think, very clearly. Every year we export nearly \$5 billion in forest products, mainly to the US market, but that's changing. As we move more to global trade, more and more of our products can wind up in other markets.

Given these statistics, I think it is clear why I see this act as a key to the future and a key to an improved and a sustainable future for many communities like this one. It is a key to the future because, as it ensures sustainable forestry, it will also ensure sustainable jobs and sustainable communities.

That issue of sustainability is a difficult issue and you've already heard a number of folks say, "Well, sustainability should be laid out like boiler-plate in the act." You've also heard other folks say, "No, sustainability and how you define sustainability depends on the knowledge we acquire about the forest and about the forest ecosystem, and as we acquire knowledge, we may want to have sustainability situated in such a way that we can work with it flexibly."

I just want to review some of the approaches to sustainability.

The Diversity report: The Diversity report used words to describe sustainability. I don't think the Diversity report defined sustainability, but it used a lot of words to describe sustainability, and some of those words are warm and fuzzy. Therefore, it's easy to get consensus between those who might be on the radical fringe of the environmental movement and those folks who believe that you simply use the forest as a timber crop. As long as the words are nice and fuzzy and warm, it's not too difficult to get consensus.

But the task that you face, and the really tough task, is to put those words into the act, the regs and the manuals such that they have legal meaning, such that they set criteria that will guide action and such that they can be

measured and tested in terms of performance and then you can hold someone accountable in terms of that performance. So it is a difficult process.

Let me give you my sense of what I think is the best way to work with this. If you read Diversity carefully, one of the concepts that comes through very clearly, one of the arguments that comes through, is that we are still learning about the forest—we are in many cases at a very basic level in terms of our knowledge of forest ecosystems—and that we have a lot to learn.

With the changes in information technology, we're able to assemble and use much more of the information. While we were taking the trip last night, you may have heard some of the representatives of Boise Cascade talking about geographic information systems and how they've invested a lot in geographic information system technology and how that allows them to work more and do more with the information they have available.

My sense is that as we move forward with more knowledge about the forest, some of it scientific research knowledge, some of it applied knowledge, some of it practical knowledge, some of it simply the result of trial and error and experience, we will want to have the definition of "sustainability" located in such a way that we can work with it flexibly.

The danger of trying to put together now, in 1994, a hard and firm definition and putting it in legislation is that you're stuck with that. You're stuck with that, and as you acquire more knowledge and you want to work with it, I don't need to explain to any of you the difficulty of getting legislation through the House, the difficulty of timetables, the difficulty of getting consensus, the difficulty of getting on the list and so on.

So I would argue that we want to work with this term "sustainability" in terms of how we can maintain it as a flexible concept, and as we learn more and as we add knowledge, we can work with the definition and work with the criteria and work with how sustainability can be measured and tested.

You've heard some discussion about the cost of moving to sustainable forestry. Some folks I think will make the argument that this will mean some added costs for MNR, this will mean some added costs for industry. I think that needs to be accepted. It's clear from the class timber EA that the class timber EA will impose some added costs. I have not heard anyone say in response to the class timber EA that it will break either the forest industries or that it will break the government or that it will break anyone else. People have said, "There are some expenses here, there are some costs here, but if we're going to do the job right, we have to pay attention to these costs."

I think the same can be said of the costs as we move on the concept of sustainable forestry. Yes, there will be some costs. I, like you, have reviewed the submissions, and there are a number of companies which have come forward and said: "We support the principles. We support moving in this direction." In fact some companies will tell you they're already there. I think if you press Boise Cascade, they will tell you that they have moved a long way over the last 10 years towards sustainable forestry

and they want to move further. There's another way of looking at this question of costs. How much will it cost if we do not move to sustainable forestry? And there are some answers to that question. You need only ask the loggers and the forest product workers who live, or used to live, in Oregon and Washington how much it costs if you don't move to sustainable forestry.

0850

A lot of scenarios happened there—questions of destruction of wildlife habitat, questions of overharvesting, questions of environmental damage—until, in the final result, the courts stepped in and imposed very harsh restrictions on the allowable harvest of the forest. I suspect we get a very clear answer on how much it will cost if we do not move to sustainable forestry from looking at what has happened in Oregon and Washington.

British Columbia has had to face what the potential costs are. The reality that British Columbia has faced over the last three or four years is that they will not be able, or they may not be able, depending on the jurisdiction, to sell their forest products. That's the case in Germany. It begins to look like the case in Great Britain. It begins to look like the case in Switzerland. If we do not and if we cannot demonstrate to the markets that we sell in that we are working sustainably in our forests, that we are managing our forests on a sustainable basis, our products may no longer be welcome in their jurisdictions.

British Columbia has had to deal with this in a couple of ways. They have had to reduce the allowable harvest in a number of Ministry of Forests districts in British Columbia by up to 50%; 25% and 30% in others. They have had to make a very clear public statement to the rest of the world that they are setting aside unique ecological areas for protection. That's very much the battle they've had to engage in in order to assure the rest of the world that they are managing their forests, their forest ecosystems, on a sustainable basis. The message has been very clear to them: "If you can't demonstrate this, your products will no longer be welcome in our markets."

Let me take the argument a step further. All of you have seen the United States engage in a variety of trade harassment practices over the last eight or nine years. If you sit down and analyse the arguments the United States has made, they try a slightly different argument each time. If you follow the press reports of what the Americans have said following the latest round, where they lost, they said, "We will be back again and we will make other arguments."

I will put to you that in the not-very-distant future, the argument we will see, either on behalf of some of the vested interests in the United States or perhaps state governments in the United States, is that our forest products ought not to be allowed into the United States unless we can demonstrate sustainability. In other words, if Federal Court judges in Oregon and Washington can put 100,000 people out of work in those states by reducing the harvest and requiring certain environmental practices, it will not be long before someone makes the argument that the same or similar practices ought to be imposed on Canadian forest products. That's the test we will have to meet, or a test somewhat like that.

There are a couple of ways of approaching this. One way to approach this would be to say, "We'll cross these bridges as we come to them." I would suggest that is not a good approach. I would suggest that waiting until we are in the shoes that Oregon and Washington have been in or we face the same challenges and the same difficult time frames that British Columbia is now facing would not be good policy. I would say to you that we would not have done our job well on behalf of the people of Ontario if we took that tack.

The other approach is to try to forge a consensus and to try to move forward in a thoughtful, measured way to move, over time, to sustainable forestry. I'm sure, if you've talked to officials in the ministry, they will tell you that they have been working in this direction for some time. The problem is that the existing legislation hamstrings you.

If you go back to the Forest Industry Action Group report, and the Forest Industry Action Group report was a tripartite report issued by industry, labour and government over a year ago, the report said that the existing Crown Timber Act doesn't have the tools. It doesn't allow us to do the things that we need to do now and we will need to do in the future in terms of moving to sustainable forestry. Those are the issues I think we're wrestling with.

In terms of how the act fits together, I think you've probably heard from ministry officials that the act will provide, I believe, the flexible tools we'd need to move towards an ecosystem basis of management and to move towards sustainable forestry. I want to emphasize that idea of flexibility because I think it is extremely important in the process of moving to an ecosystem approach.

We have produced in this act enabling legislation because we deliberately wanted to avoid a cookbook approach to forest management. A cookbook approach essentially says, "You must do this here, and you must do this here, and you must do this here, and you must do this over there." In other words, it's trying to tell professional foresters and people who work in the forest and biologists, whether fisheries biologists or wildlife biologists, what they must do, trying to tell them from Queen's Park what they must do across the very Ontario landscape. I think that's an absurd idea, a totally absurd idea.

In the travels of the committee you'll note that we have at least three forest types: the deciduous forests found mainly in southern Ontario, the Great Lakes-St Lawrence mixed forests, the boreal forests, and within those forest types there's variety.

The boreal forest in northwestern Ontario is quite different from the boreal forest in northeastern Ontario. You saw jack pine sand flats last night where you can fly over with a helicopter and you can drop jack pine seeds out of the helicopter and come back six years later and you've got a forest, a forest that is so thick that I would venture to say you could barely walk in it.

In the part of the world that Len is from and Gilles is from, you find what I call spruce swamps. God help you, if you drop seeds out the back of a helicopter, if you think it's going to accomplish anything other than provide

food for birds and rodents. We need legislation that allows people who work in the forest to work flexibly and to apply their science and knowledge and experience in an appropriate way. That's what we've tried to do here. If we try a cookbook approach as well, I think we will be stuck in the past. I think we will tie ourselves to legislation that doesn't allow us to move forward as we acquire new information, new technology and we acquire more experience.

We chose to put the ideas that will guide forest management in manuals that set out the acceptable approaches to forest operation. The development of those manuals is still in progress, and I continue to encourage people who are interested in improving forest management in Ontario to become part of the process of refining the manuals and provide written comments or participate in the upcoming workshop. We believe this flexible approach is right for Ontario, as I said, because of the different forest types and the variety within those forest types.

In addition to committing ourselves and this province to improving forest practices, however, in addition to improving the forest practices and trying to put that flexibility there, if you're going to put that flexibility there, there has to be a check and balance in the system.

I believe the check and balance is, you've got to find a way to hold people accountable. Give people the flexibility to do the work on the ground in the appropriate way, but then provide the accountability mechanisms to hold them accountable for the results. Accountability is also important, I think, because it's something, again, that we can show the world, where we can say to the world there are accountability mechanisms here. There are ways that we hold people responsible.

How do we increase accountability? One way is by setting up local citizens' committees, by providing that independent audits are undertaken to review the performance of government and forest industries, by making the audits public and by producing regular state-of-the-forest reports in plain language and providing them to the Legislature. This act increases accountability by improving our ability to monitor forest operations and to require compliance with guidelines and by increasing the provisions for enforcement.

0900

Everyone who operates in our forests must be accountable for their actions and their operations, and I believe this act will ensure that. We have stronger enforcement procedures so that we can make sure forest operations are carried out properly. There will be significant penalties for those who fail to comply, but I ask you to go through that compliance scheme carefully.

It provides, first of all, for stop-work orders, for remedial orders. It provides for administrative penalties. It provides, in the final analysis, the possibility to take someone to court. It is what I would regard as a positive, constructive way of moving towards compliance, enforceability and accountability.

I want to talk just a minute about forest renewal. I suspect that when the OFIA main representatives come

before the committee, they'll talk about some of the tours that have been made in Europe lately. One of the messages that is coming back from Europe is that Europeans want to be assured that we are sustaining our forests. I would argue again that one of the arguments we will face very soon from the United States is that they will want to see in detail that we are renewing our forests.

How do we approach this? The approach in the past has been that every year the Ministry of Natural Resources had to go to treasury board and had to battle for forest renewal funding. Some years you'd get a generous allotment; other years you'd get a less generous allotment. The problem, even if you get generous allotments each year, is that if you are doing forest planning, forest planning doesn't happen on a one-year basis. You're working in a dynamic system here that works over, as you heard last night, 50 or 60 years for poplar, 70 or 80 years for jack pine, over 100 years for spruce and 200 or 300 years for red and white pine.

At the very least, we need to have a system that will ensure that we can count on a reliable amount of money, not just this year and next year but five years hence, 10 years hence, so that we can do the kind of planning and negotiate the kinds of long-term contracts and other working relationships that will allow us to work in an effective and efficient way in the forest. That is the idea behind the trust fund: The forest is not harvested unless money goes into the trust fund. Money that goes into the trust fund can only be used for renewal of the forest.

The idea is to provide a general fund of about \$100 million a year that will be available exclusively for forest renewal, and I believe that through that trust fund we will be able to work more efficiently, more effectively than ever before in terms of forest renewal. We'll also be able to hold it up to those other jurisdictions that may want to attack us to say: "Here's our fund. It's a trust fund. It can't be used for anything else. Do you have one?"

Again, I think it is a strong piece of the action in terms of ensuring forest sustainability and in terms of being able to say to other people in the world: "This is how we ensure the sustainability of our forests. How do you do it for yours?"

There are a few things that I know you have heard from some of the people who have appeared before the committee that I'd like to clear up. One of them is the issue of licensing, particularly FMA holders. Some FMA holders have said that they will lose the evergreen licences they now enjoy. I simply want to say to you, that's not correct. The transition provisions of this act will move FMA licences, forest management agreement licences, which are evergreen licences, to what we call sustainable forest licences. The same concepts of length of term and rolling over of terms will continue.

There's been concern raised about provisions that would allow cancelling or suspension of a licence. It has been suggested that this is new. It is not new. The current Crown Timber Act provides exactly the same opportunity. We're not doing anything new here. We're simply taking this existing concept out of the Crown Timber Act and applying it to the Crown Forest Sustainability Act.

What is new under the Crown Forest Sustainability Act

is that we have formalized a process so that companies would have to be given specific information about why a licence is being cancelled or suspended if that were to happen, and they would have an opportunity to challenge that decision. In fact, if anything, I think we've put some administrative fairness into the process.

The Vice-Chair: Minister, you will have another four minutes and then we give 10 minutes to the Liberal and Conservative caucuses. That brings us to 9:30, if that's agreeable with the committee.

Hon Mr Hampton: I'll take less than four minutes. Let me conclude by briefly discussing some of the other initiatives that build on sustainability and also show our commitment to working with forest industries.

As members of the committee may be aware, we've made some announcements in the past couple of months about a number of projects that are designed to provide opportunities for new development in forest industries. These projects are the northeastern and northwestern Ontario hardwoods projects. In both cases, we have identified sustainable supplies of poplar and birch that are available for immediate development.

Last week, we were able to announce a new mill project to be built somewhere in this area, in the Fort Frances area, and for those of you who were on the bus last night, you'll know that as we drove through some of the cutover areas, there were examples of standing birch and poplar trees. You were simply told there was no commercial use for those trees, even though the coniferous trees had been removed from around them. They were still standing, but they were not in a very good state of health.

The oriented strand board opportunities will now allow us to use those previously underutilized species in a way that we think is very commercially attractive and will also help us in terms of sustainable forestry because we'll move to a more balanced system of harvesting and, I would argue, a more balanced system of silviculture.

We have four other initiatives like that under way across northeastern and northwestern Ontario, and more will come. I believe that if we move down this road to sustainable forestry, we will be able to take advantage of new economic opportunities in the future, and there will be new economic opportunities as the technology improves.

If we do not move down the path of sustainable forestry, I think we will limit ourselves in terms of being able to take advantage of some of the new economic opportunities, because we will face some of the barriers that are now being faced and have been faced in Oregon and Washington, in British Columbia and some of the other jurisdictions.

As I said, I think this act is important. It's important that we move in this direction now. While we move, it's important that we maintain the flexibility that people need on the ground to be able to do the job. I believe this act is the key to the future for forest industries, for forest communities and for the health of our forests across Ontario.

Mr Michael A. Brown (Algoma-Manitoulin): I'd

like to thank the minister for coming this morning and having this chat with us. I know he was otherwise occupied when the committee hearings started, and we very much appreciate his taking the time out of his very busy schedule to come and see the committee at his first opportunity.

I think the minister has said a lot of things that we all believe. I think the principles he has enunciated are principles that all in this room and in the Legislature believe in.

The difficulty with this bill, as we are hearing as we're going from community to community in northern Ontario and indeed next week in southern Ontario, is matching the rhetoric with the words. From our party's point of view and from mine, I think the minister talks a great deal about the competitive pressures and I think you could define them as eco or green competitive pressures, that we must compete with British Columbia and we must compete with the United States on an environmental basis.

We agree with that, but we don't start from that premise. I think we start from a premise that Ontario has always been a world leader, always will be a world leader, and excellence in and of itself in economics and in environmental practices is something worth striving for, not just because somebody's going to make us do it if we don't. I think that is a real difference that I haven't heard from the minister. Excellence in Ontario's forests will sustain jobs regardless of what other people happen to be doing.

0910

As we go through, the minister has talked about the economics. Let's be clear here, there is a huge shift of responsibility in the forests. There's a real shift where revenues are coming from and where revenues are going to. It is a huge shift in the northern economy, a huge shift. There is far less money coming from consolidated revenue and far more money coming from northern industry. This may be right, this may be wrong, but it's taking millions of dollars out of the northern economy that were once there.

Having a minister come before us and talk about sustainability, about all the wonderful things this new act will do—and I'm hopeful the new act will do all those wonderful things. He comes and talks about all the wonderful things the new act will do when he represents a government that has over its term of office reduced the planting, for example, by 30 million trees in the crown forests of Ontario; where he represents a government that has reduced tending activities to about half of what they were in 1990.

He says: "Well, I can't win at treasury board. Gee, there's only six northern ministers in this government and I go to treasury board and it won't give me any money to do my job and so we're going to have to change the way we do it."

Well, Minister, we agree with the trust concept. We understand that funding should be dedicated, but I think people will excuse us when we look at the actions of the government over the last four years as compared to the

rhetoric of the government over the last four years.

Mr Mammoliti: Blah, blah, blah, blah.

The Vice-Chair: Order.

Mr Brown: We then talk about the cost-benefit.

Mr Frank Miclash (Kenora): It's a fact.

Mr Brown: The minister says—

Interjection: There's only a few minutes left.

Mr Mammoliti: I'll sit here and listen to Mr Brown being holier than everybody else.

The Vice-Chair: Order, please.

Mr Brown: We've asked the ministry to produce a cost-benefit. If we do it this way, following these rules, will this produce the best forest, both commercially and for environmental purposes, for all the values of the forest, or is another way the best way to get there? What are the options?

You're presenting one, and we're not sure because you're producing no cost-benefit analysis, whether this is the road to providing the best value for the money, for the people who are actually doing the forestry or for the people of the province of Ontario. No idea.

We listened to people in Thunder Bay—headline in the Times-News: "Plans For Forest Could Kill Area Jobs." We wonder as we go through this—this happened to be an analysis of one independent logger representing a group of independent loggers. Maybe his analysis is wrong, but do we know? Where's the analysis? Where's the cost analysis to know how this impacts on the various segments of the industry? As the minister knows, to talk about the industry as one huge group is to do it a disservice. There are in actuality various groups out there dependent on the forest even within the timber industry itself.

We have people who work on crown units, people with order-in-council licences. We have people on FMAs. We have quite a combination of the above. We wonder how that's going to impact on the men and women who derive their living today from the forest, and we're told quite clearly that some of them are very, very concerned about their future livelihood.

We have no analysis from the Ministry of Natural Resources to be able to allay their fears and say: "Oh, no, no, these are what the numbers will be. You will be able to do this or that. This is the assistance you will actually get and the bottom line, which is all that really matters, can be this for you." That hasn't been put forward.

We've heard, as the minister said, from various groups about sustainability. I think that's really the issue, and I'm beginning to wonder why that title of the act, "sustainability." One group in Thunder Bay told us they thought having the word "sustainability" in the act as part of the title when it isn't even defined in the act is perhaps almost hypocritical.

I've been asking the question of people when they come and say, "We need a definition," I've been saying to them, "Have you read the manuals, have you read the regulations, have you read the act, and according to your test, according to your definition of 'sustainability,' does it meet it?" Do you know what the answer I'm getting is?

"We don't know. We haven't had time to analyse the manuals, we haven't had time to analyse the act, we haven't had time to analyse the regulations." I think the minister would agree that there's hundreds and hundreds of pages of material here. They haven't had time, and we're concerned, quite clearly, that people aren't even sure whether the act meets their test.

We're going to continue to work with the ministry as we go through this legislation. We're going to continue to work with this committee to find improvements. But I want to tell you, Minister, there are a huge number of concerns, because we're not sure that this act does what you just said. If it does, we're totally supportive. If the rhetoric and the reality are the same, this is fine, but we have a great concern from what we're hearing out here from northerners, and I suspect from people in southern Ontario next week, that where the rubber hits the road, this act doesn't meet the test.

Mr Hodgson: Thank you, Mr Minister. It's been a pleasure to visit your home town and go out and see the forests last night. I'd just like to say that on behalf of the Conservative caucus, Gary Carr and myself, we've really enjoyed the hearings throughout the north. We've met a lot of people who are connected to the industry and connected to using the forests and just have an interest in the wellbeing of the province of Ontario.

One of the first things we decided to do as a caucus when we came up here was to listen to the people as they came before us, try to have an open mind and try to learn about this issue. As far as political speeches go, I'm not going to deliver one to you in your home town. We can wait till we get to Queen's Park for that.

Mr Mammoliti: A man with some style.

Mr Gary Carr (Oakville South): Then we'll get you.

Mr Hodgson: We support the broad principles of the bill and we've heard a lot of people come in, and I think there is a consensus, like you said, on the fuzziness of these warm, motherhood statements.

We've got a lot of questions. We're trying to learn about how the detail of this act lives up to its name and sustains us in terms of selling our products to the world market, but also in terms of the forest as an ecosystem and in terms of the jobs and the economy of this area. As you stated, it's a very important segment of our economy for the whole province and it's crucial for the north and the 50 communities that you refer to.

One of the things that has come up, though, that I would like to get your opinion on in the future is the idea that we need more knowledge. We not only need the knowledge in terms of abstract connections between different ecosystems, but what we need, and you've referred to this this morning and I referred to it in Sault Ste Marie on the opening day, is a way to collect an inventory that's geographically identifiable, and the GIS system's a good model to start with.

When you refer to the money it's going to cost to implement this, I think—this is my opinion—there's going to be some upfront money required and it's going to have to come from the general revenue. Forestry provides a lot of revenue to the province of Ontario, and

if we're going to protect the whole forest as an ecosystem, we're talking about the revenue from tourism, income tax, corporate tax, a whole variety of spinoffs that multiply throughout our economies. They buy equipment and buy products. The Ontario government surely can find the money to prioritize that money to get an inventory so that we can prove to the rest of the world that yes, we are being sustainable.

I realize this act is enabling and we can move towards that, but we've heard people suggest, for instance, that we use the futures trust fund to gather information, a substantial part of that to set up a system where we have an inventory and we can have measurable goals in the future that prove to people and to say on the audits that yes, we have made progress and this is a sustainable forest ecosystem.

The local citizens' committees: We need more definitions on the criteria that they're going to be selected on and the mandate that they're going to be given. If we're going to follow the EA recommendations, that's one model. We'd just like that clarified.

We have a variety of questions that we can sort out. As I said at the opening, in the PC caucus we're here to learn and to listen. We support the broad principles and we really hope that our forests will be sustainable. Hopefully, we're making a step in the right direction. If we're not, we hope that there will be amendments coming forth as we learn more about this.

0920

The Vice-Chair: Minister, did you want to add some concluding remarks?

Hon Mr Hampton: Yes. Mr Hodgson raised a couple of questions and I'll try to answer them.

In fact, what we've done in the ministry over the last three years—and some of the investment we've made is beginning to show fruit now. We've probably invested more in research and technology than the Ministry of Natural Resources has invested in that area at any time in the past.

For example, if you'd continued about 20 miles up that road last night, you would actually see scientists from Lakehead University and MNR people doing research on moose habitat using satellite and global positioning technology, which allows us to learn more than we've ever known before about how moose behave in the forest, where they live, where they like to feed, where they move and so on. We've never had that information before. In many ways we're a world leader in that.

The Ontario Forest Research Institute in Sault Ste Marie has conducted probably more research in terms of vegetation management, in terms of genetics and really in terms of trying to figure out where we move from here, doing the very realistic research that we can then work with in a partnership way with forest products companies, with first nations and with communities, and much of the work that's been done is now starting to bear fruit.

Earlier this year MNR signed an agreement with a geographic information system company and it's one of the world leaders. The agreement we signed allows us to work with them in what is a type of joint venture to

jointly develop the information technology that we need to use in the future. You'd be happy to know that this geographic information system company is the one that is used overwhelmingly by the major forest products companies, not only in Ontario but in North America. We have an opportunity not only to develop things for Ontario but to develop things that we can sell possibly in the international marketplace.

We appreciate where we have to move and we appreciate the lapse of time that will happen between putting the research together, gathering the information and then putting it to practical effect. Some of that has already been done, and I hope as we get to Toronto and you have a chance to talk to more of the ministry officials, you'll actually ask them some of the detailed questions on this.

Let me just say this. Mr Brown speaks about, "You should measure how well you're doing in terms of how many tree seedlings you stick in the ground." I have to say, in my view, simply sticking tree seedlings in the ground and not knowing whether that's the appropriate silvicultural treatment or whether you'd be better off using natural regeneration or better off using aerial seeding or better off using careful logging techniques is exactly the approach that we can no longer afford.

We've got to get in and we've got to allow people to conduct more of the science of forest management and the ecology of forest management, and that requires us to move away from numbers and simply saying: "We stuck 160 million seedlings in the ground last year. We don't know if they all went in green side up or not. We won't know five years from now how many of them are growing. We won't know if we put them in the appropriate place. We don't know if it was cost-effective."

That's exactly what we have to move away from, and that's exactly what we're trying to do here, trying to put in place the mechanisms and the institutions that will allow on-the-ground foresters, on-the-ground biologists to gather the information, use the information through the available technology, work in partnership with industry and first nations and work with local communities to do a better job than we've ever done before.

Mr Carr: I want to thank you for the hospitality. As Chris said, we really enjoyed it.

I think this is one of the few bills where we agree in principle; a lot have been bills that we don't even agree on principles. There have been some major concerns, though, voiced by people like Avenor and Spruce Falls Inc. They basically said that we shouldn't pass the bill as it is, without major changes. I won't read through their presentations, but I think your staff has probably been keeping you informed.

Do you see major changes coming? If so, what do you believe some of the amendments will be coming forward that can alleviate some of those fears?

Hon Mr Hampton: I believe the major issue that we all have to wrestle with, and everyone's wrestling with it, is the issue of how you define "sustainability" in a way that has some legal meaning, that has some practical application.

I think, around this table, we could all think of a

description of something that's not sustainable and we could think of a description of what is sustainable, and if we're authors, that's wonderful. But we're not, in that sense, authors who are trying to produce a book that someone's going to read. We have to produce something that has legal meaning, that people can say, "Okay, I understand that this is the line, I understand that these are the criteria, I understand what these criteria mean and I can put these criteria into practice and I can measure and test them." That's the difficulty we have to wrestle with.

All kinds of folks are wrestling with that. Mr Brown said that he has asked people, "What do you think sustainability means?" or "Do you think this meets your measure of sustainability?" You get a variety of different answers or you get folks who say, "No, I can't quite give you a definition." So this is where I think we're going to have to focus some attention and indeed ministry officials are focusing some attention.

The next question is—and this has to do with how the act structures itself—does it go in the act or does it go in the regulations and the manuals? My preference is that you put it in the manuals because this will be a developing concept.

Again, if you read the Diversity report, and Professor Duinker, who I understand already appeared before you, said, when we're dealing with a forest—he uses the term "adaptive ecosystem management." We're dealing with a system that is incredibly dynamic, that can change, can be altered by a wind storm, can be altered by a forest fire, can be altered by the introduction of a new species, can be altered by the kinds of chemical compounds that we put into the air through things that may happen in urban southern Ontario. What you have to do in adaptive ecosystem management is take the knowledge and apply it and reapply it and continue to move on.

My argument would be that that's indeed where we're at. The real thrust of sustainability, trying to describe, define and set the criteria for sustainability, ought to go in the manuals so that we can work with them progressively over time. So that's where I think the major issue is.

There are some other questions that I think can be dealt with just in terms of misunderstanding. The licensing is one where I think there's some misunderstanding. Some folks want "shall" to be everywhere. In other words, "You shall do this, you shall do that, you shall do that."

0930

Again, I think what you have to measure against that is, you've now seen what an incredibly varied landscape this province is. Are we to write three separate forestry acts: one for the deciduous forest where Mr Hodgson lives, one for the mixed Great Lakes-St Lawrence forest, and one for the boreal forest in the northeast and one for the boreal forest in the northwest? I simply don't think that's workable. I don't think there's enough time in the Legislature to do all that.

The Vice-Chair: There won't be quite enough time in this committee either. This might be a good time to jump in because it is 9:30. We do appreciate your

presence before the committee and that you had an opportunity. We might see you again next week in Toronto or during the clause-by-clause hearings. Certainly we'll be looking forward to hearing from your officials again. Thank you for coming and talking about your reasons and your understanding of the bill that you put before the House.

Hon Mr Hampton: Thank you very much, and I promised the sun would be here and the sun is here.

TOWN OF FORT FRANCES

The Vice-Chair: To begin our normal process of hearing from presenters, the first presenter this morning is Mr Frank Myers, development coordinator for Fort Frances. Mr Myers, you have half an hour, and please leave time for questions and answers at the end. The committee always appreciates that.

Mr Frank Myers: Mr Chairman and members of the committee, good morning. I feel quite honoured to be able to follow the minister this morning. I'm always following the minister. For your records, my name is Frank Myers. I am the development coordinator for the town of Fort Frances. I wish to welcome all of you to our community and hope that your stay here is a pleasant one. If there is anything that I can do to make your visit more enjoyable, please don't hesitate to ask. We are very proud of our community and the amenities it has to offer, so please take time to take advantage of them.

Our community's history is based on the lumber and saw and timber industry, and today our future depends on pulp, paper and other forest products. We have a long relationship with the forests that surround us. I would like to say that Mayor Witherspoon sends his greetings and apologizes for not being able to be here today. He's in Toronto on other business and will be back later on this afternoon. He has meetings this afternoon, but I'm sure that he'll make himself available to you if you wish to speak to him.

With regard to Bill 171, the Crown Forest Sustainability Act, we find this bill not to be so much different than the Crown Timber Act it replaces. Perhaps amendments to the Crown Timber Act would have been sufficient to accomplish the changes that were required. An article written by Jerri McDougall in the August 17 Westend Weekly points out the tremendous cost of a name change. She refers to the change in a company name where all signs, stationery, business cards, advertising had to be changed at great cost, or, in another case, she points out that when a woman gets married, all of her cards and documents have to be revised at a great cost and a lot of time to her in order to facilitate her new last name.

I quote a portion of Jerri's article that refers to Bill 171:

"It was presented to the Legislative Assembly as a revision to the Crown Timber Act. Even though Bill 171 was presented as a revision, an amendment repeals the Crown Timber Act and names the new set of laws the Crown Forest Sustainability Act, 1994.

"The legislation still applies to timber on crown land, so there is nothing misleading about the old name. The

force and authority of the legislation, regardless of what it is called, will be the same, for this is the way the law works. The change is merely a political whim without substance, but a whim that will impose additional costs on the overburdened taxpayers of Ontario.

"Every document which refers to the Crown Timber Act will need to be revised in both French and English. The Crown Timber Act appears in other legislation. Eight such acts are noted in Bill 171. There is reference to the Crown Timber Act in manuals, policy statements and other documents. There is no justification for the inconvenience and additional costs which will be incurred because someone wants the name of the act changed.

"As is usually the case, there are better reasons for keeping the old name than for changing it. But in this particular case, as is usually the case, political whim will probably take precedence over logic."

The forests and most certainly forest practices affect all of us in communities such as ours. The way in which our parents and grandparents used the forest affects our daily lives today, as our care for the forest will affect our children and our grandchildren.

Fort Frances has been in the past, and still is today, heavily dependent on the forest for its survival. Of the 4,400 people in the workforce in this community, 820 of them work directly for our major employer. This is 19% of our workforce. This does not include all of the contractors and subcontractors. You could probably safely say that 50% of our workforce is directly and indirectly involved in the forest industry.

The forest industry locally will pay out approximately \$40 million per year in salaries and wages, not including benefits. Our local company pays approximately \$4.5 million per year in local taxes. This is 33% of our total tax revenue. We're probably no different than the majority of other single-industry towns in northwestern Ontario. Our lives and the life of our community depend on the forests.

We believe that the majority of forest companies operating in northwestern Ontario, including our major employer here in Fort Frances, are good stewards of our forest resources, for their future also depends on how they treat the forests of today.

I understand that you and members of the panel were treated to a tour last evening. You were probably, as I was, very impressed with the way our forests are now being treated. There is a tremendous difference between forest practices of 10 to 20 years ago and today.

In the new act, a forest management board will be established. If such a board is set up, it must be made up of a majority of forest industry users and those who have a direct daily contact with the forests and not those who are unfamiliar with new forests, as they will only hinder progress and the future profitability of our forest companies.

The forests and their renewal are very complicated and complex. We believe that the penalties spelled out in the act are excessive and will detract new industry from establishing facilities in Ontario and using the raw products from our forests. Only multinational companies

will have the financial resources to pay such fines.

An independent board or panel should be established to assess penalties on a company or forest contractor so that the company or contractor does not become a victim of an overzealous civil servant or representative of some ministry.

The forests of northern Ontario must be kept separate from the forests of eastern and southern Ontario, for obvious reasons, as each forest has its specific use and the citizens of Ontario in each area have specific and separate uses of their own forests.

Environmentalists and other action groups should not be allowed to dictate the use of the forest outside of their region. The people who live in a particular area should be responsible for the present and future of their own forest. As a citizen of northwestern Ontario, I don't believe that I have the right to tell the people of southern Ontario how their forest should be managed, and they should not involve themselves in what I consider my forest.

There are many forest users besides those who harvest the trees. Bill 171 only addresses the one user group and assesses fees and penalties upon them. Will there be an amendment to the Crown Forest Sustainability Act to address other user groups such as the hospitality industry, recreational users and those who harvest products from the forest?

We agree fully with the establishment of a trust fund for forest regeneration and damage, especially one that will be managed by someone other than government. This is a move in a positive direction and will ensure continued funding for forest renewal.

Let us not become so overprotective and restrictive of our forests that we make our industries uncompetitive in world markets. Yes, we have to protect our forest resources, but there's a fine balance to be maintained between protective and overprotective.

The forests belong to all of us for pleasure and for employment, and all of us must be responsible in some manner for the care of this delicate resource. Without the forests, our community and many others like it would not be here.

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This bill is a positive step in forest renewal and will guarantee the replacement of our forests in the future, as long as the fees do not become excessive and place a financial burden on forest companies that will force them to become uncompetitive.

The ministry itself is the forest manager for the people of Ontario. It is their job to manage the forests for us, on our behalf. This act, as the old Crown Timber Act, puts the onus on the forest company to manage the forests and their FMAs or allotted areas. This is perhaps unfair and should be looked at more closely. Other users of the forests should also have to share some of this responsibility.

This industry, as other industries, is becoming overly burdened with paperwork. I remember many years ago when I was in the aviation industry the Transport ministry inspectors used to tell us, "Go out and make money first and then do your paperwork, for without you we don't have a job." Today ministry officials say, "Do your

paperwork first and, if you have any time left over, try and make a dollar." As a result, there are not many small aviation companies left in Ontario, and the same could happen to our forest companies.

Mr Miclash: Frank, I must say that it's enlightening to have your presentation after all the fuzzy stuff we've heard so far this morning. You've touched on some very good reality in terms of northwestern Ontario.

In your presentation you talked a little bit around other users. Section 12 of the act refers to local citizens' advisory committees. What I would like to do is to maybe get you to expand a little bit on what you would see a local citizens' advisory committee being composed of, the membership, and possibly a little bit of what you would see their mandate as being.

Mr Myers: I believe that there is a citizens' advisory committee already set up in the Atikokan area, but I don't believe there is one in this area and I don't know if their jurisdiction comes this far. I don't know if they have been used. A local citizens' advisory committee, in my mind, should be made up, as I mentioned, of some forest users and citizens of the community who have a knowledge of the forest.

As I mentioned, those who do not have any knowledge of the forest should not be on a committee. The forest is a very delicate thing and very complex and complicated, and you have to have knowledge of what you're doing. You just can't take someone off the street and say, "Here's a mandate," because they'll hinder progress.

Mr Miclash: What would you see their mandate being?

Mr Myers: I'm not quite sure. I don't know how far they should be allowed to go. When you're talking of harvesting of product, when you're talking of putting in roads, when you're talking of looking after the water and the flora and fauna of the forests, it's a pretty big job, and I don't know who would be willing to take that on. Am I speaking like a politician?

Mr Brown: No, no. I think you make a good point. At the beginning of your presentation you talked about the need for a new act in the first place. Amendments to the Crown Timber Act may be very much what was in order. Certainly no one suggests that there shouldn't have been some changes to the Crown Timber Act, but we heard from a presenter, I believe in Thunder Bay, who said to us: "Well, this really is not a forest sustainability act; it's just really a crown timber act. All they've done is go through and replace the word 'timber' with 'forest' in every appropriate spot."

Mr Bisson: Give me a break, Mike.

The Vice-Chair: Mr Brown, you have the floor.

Mr Bisson: Do you have to be factual on committee?

Mr Brown: Mr Bisson, I'm just repeating what a presenter said to us in Thunder Bay. As I look at the act, look at the word "sustainability" in the title, find that nobody can define it, nobody wants to define it, and hey, if we do define it, the minister says, "Maybe it should be in the regs or the manual," I mean, you give an act a title that you're going to define in a manual? I'm having some difficulty with the concept too. I wonder if you wanted to

elaborate a little bit on that point.

Mr Myers: I'm not sure that I should. You're right, I believe. "Sustainability" is an all-encompassing word. I don't know if sustainability means imposing large fines on a company. I really personally don't know what sustainability means either in that sense. But we do have to have a forest that will renew itself and, in that, I'm sure the trust fund will guarantee that, and possibly that's what they mean by sustainability.

Mr Hodgson: As I mentioned earlier, the trust funds aren't created in this bill. They were created in Bill 160. Right now, forest yields have to be sustainable. That's been around for a long, long time, before my time.

You're the development coordinator for Fort Frances, and you mention the bottom line of being competitive. We've been saying that we're overtaxed and overregulated, and you see this in the additional burden of paperwork that will hinder our competitiveness. But as the development coordinator for Fort Frances, you mentioned other users of the forest and how maybe they should be paying or—are you suggesting that they pay or just do some of this paperwork, which is in fact a payment? Do you want to elaborate on that?

Mr Myers: There are many, many other users, and right now I believe we're only taxing one user, and we're taxing the one user quite heavily. If we're getting back to sustainability of the forest, is the one user, the major user of this forest, the one who is going to have to sustain the whole forest for future uses? When they go in and harvest for their use, they are disrupting or getting close to—the ministry is also looking after the waters that are within the forests and they're looking after other products in the forest, and the animals and so on and so forth.

How they are going to impose fees on other users, I'm not quite sure, but I know that the licensing fees to go out and harvest animals out of the forest, that money probably goes back into general revenue and we don't see that for regeneration of animals in that forest. The money for fishing licences, I have no idea where that goes. I believe that probably goes into general revenue and does not come back into fish hatcheries and the regeneration of fish stocks.

Mr Hodgson: We met with some outfitters, and the fishing licence fee I feel should be the same as the trust fund for the forest renewal.

Mr Myers: I think so too.

Mr Hodgson: That's the reason you were collecting it, for fish stocking, renewal of habitat, spawning bed rehabilitation, things such as that. But it's not being used that way; you're absolutely right. We met with outfitters from other areas, and they've said that they pay for bear management areas, they pay docking fees if they fly in and use an area.

Some people have suggested that right now the ministry feels there's a provincial interest in preserving the water quality for the fish habitat, and so they've got, you know, the 100-metre setback from water bodies of significance. If people want that to be expanded, have you thought about how you would implement any fees?

I guess what you're saying is that if you allow these

groups to take away cuttable areas, that's a loss of revenue for your town in the development that would spawn from that. So what are you saying? The crown's out of money and therefore should get money from these groups?

Mr Myers: If they're taking away, they should be paying for what they're taking, but I'm not saying to increase fees on them. I'm just saying use the fees that they're paying now to be more productive in regeneration, because the fees now are lost in general revenue.

Mr Hodgson: Okay, so you're not asking for additional fees to make these people uncompetitive. You're saying that they're paying licensing fees for hunting, they're paying licensing fees for fishing, and that they should stay and help our communities up here.

Mr Myers: Yes, in our particular forest. Yes.

Mr Hodgson: Okay. Thank you.

Mr Myers: But I would like to emphasize that I don't believe the fees that are paid by any user group now should be increased. I believe the fees they are paying now should be used for a regeneration of the product.

Mr Hodgson: Well, I already feel that some of the fees we pay right now should be lowered.

Mr Myers: Oh, I'd love to see that.

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Mr Bisson: First of all, just by way of introduction, I'm the member out of Timmins, Ontario, which is also in the northern part of the province.

On your comment in regard to the amount of money that is paid into licences not coming back in, one of the first things I did on being elected was to take a look at the amount of revenue generated through various licences—fishing, hunting etc. There's a greater amount going back in than actually is paid in. Maybe the concept of going to the trust is not a bad one, but I think, just to set the record straight, the ministry actually spends more money back on fish stocks and wildlife management, habitat, all of that stuff, than the money that comes in on fees, just to clarify the record.

I want to pick up on local citizens' committees, because you made a comment that I thought was quite interesting, especially to somebody from northern Ontario. I've worked in the mining industry most of my adult life. I've been working with both the forestry and mining industries in my home riding quite diligently. One of the things that I get from the mining industries and I also get from the workers' representatives in the unions is that they want a legislative framework that is enabling, that allows them to go out and do their jobs in a way they feel they have the expertise to do.

What I heard you say through your presentation, and it was picked up by Mr Brown, is that you wanted to define "sustainability" in a really rigid way. Doesn't it make more sense to allow those people out in the bush who are doing the work now to reflect the needs of that particular forest operation through enabling legislation rather than rigid legislation? Because what I hear you saying is you want something that's more rigid. Or am I misunderstanding you?

Mr Myers: I don't want any legislation that's more rigid. I don't want any more legislation, to be quite honest. I would certainly like to see less. As I mentioned also, the companies that are in the forest are managing their resource, because if they don't, they're not going to be here in the future. They are the ones who are looking after the resource.

Mr Bisson: I guess I agree to a certain extent. I know, for example, that Malette lumber or Abitibi-Price up in my area do not do a bad job when it comes to managing. But what really caught my attention is when you talked about citizens' committees in the way that you did, because one of the biggest complaints I get back home is that a forest company will go out and prepare a five-year management plan in regard to its FMA, will go out and put a road in somewhere and be in a position of having to say that road is not accessible after a while, end up doing things that the public generally doesn't understand or know are coming. Then the communities of interest, be it the cottage associations, be it the local business people, be it the anglers and hunters, all are up in arms and are mad because they don't know what's happening.

One of the reasons behind the citizens' committee is not to approve the forest management plan but to assist in the development of the forest management plan so that all of those communities of interest that utilize the forest, because in the north we all do utilize the forest, understand what's happening and have an opportunity for input.

When you made the comment that you feel you can have only people on citizens' committees represented by those people who understand something about the forest, it made me think, because if you look at what the class EA talks about, and that's the basis of what these committees will be set up, it talks about who's going to be on those committees.

I'd ask you the following questions: Local businesses, do they have a place on local citizens' committees? Do they understand the forest? Tourism industries, anglers and hunters, native communities, the forest industry, naturalists, municipalities, trappers and other resource users, MNR, the forest industry trade unions, woodworkers, small independent loggers, chambers of commerce, economic development officers, those are all people, I understand, in my community knowing a hell of a lot more about the forest than we give them credit for. I just thought your comment was very contrary to what I see in the class EA.

Mr Myers: I've been a resident of Fort Frances all my life and I don't believe that I know as much about the forest as I probably should. I don't believe that I should be able to tell the Ministry of Natural Resources or Boise Cascade where or where not they should put a road to go in and harvest product because I do not know that much about roadbuilding in a forest.

But every time a road is built there are advertisements in our local newspaper telling us of the plan for the future, and if we wish to speak on that, we certainly have the opportunity to do so. The opportunity is there, whether I know that much about roadbuilding or the

forests or not, for me to speak and have my input. But what I'm saying about a committee is that there probably should be someone on that committee much more knowledgeable than I am about that particular area they're going into.

Mr Bisson: You'll be glad to know that the recommendations of the class EA speak exactly to that and that the committee's role is not to make the forest management plan but to help and to advise. In the end, it's the company itself that makes those decisions, according to the act.

Mr Len Wood (Cochrane North): Thank you very much for coming forward with your presentation. I found it curious that you're saying that there seemed to be a political motive for changing the name of the act and not necessarily that there was any requirement or need out there. I found it quite interesting that you would come up with a comment like that because there's been so much dialogue and discussion out there over the last number of years, with the environmental assessment and the need, that the timber act of 1952 was outdated, was not doing the job that it should be. Something had to be done to address the forest as an ecosystem and the sustainability of it and move forward with that.

Whether it was the Conservative government in power, whether it was the Liberal government in power or whether it was the NDP government in power, the act was outdated and had to be revised and updated, and along with that the name change, very similar to Boise Cascade Canada feeling that they cannot live with that name any longer and they're going to go to a new name, Rainy River Forest Products. There's a reason and a need for it in the financial markets, I guess. I'll leave that comment with you, if you want to comment further on it.

Mr Myers: As I mentioned, the forests today are much different than the forests 10 years ago. The forest today is still working under the old act, and the old act has been changing over the years. Even though they're following that act, the forest practices are changing.

Do we need a new act to bring us up to date with the changes that we have today or could we have not just made amendments to that act? I understand the world is changing, but did we have to make it so severe as to change a name when we could have used the old name and just put in a few amendments to bring us up to date today? But the forests and forest practices are much, much different and they're still using the old act.

The Vice-Chair: Thank you very much, Mr Myers. That will conclude the half-hour allocated for you. We certainly appreciated your presence before the committee and we ask you to extend our greetings to the mayor.

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FORT FRANCES AREA TRIBAL CHIEFS

The Vice-Chair: The next presentation will be on behalf of the Fort Frances Area Tribal Chiefs.

Chief George Kakeway: First of all, I would like to take this opportunity to thank you for allowing us to make our presentation to the legislative committee.

Maybe I could at this time introduce our delegation: Rick Kosmick, staff of Treaty 3; Tribal Chief Willie

Wilson; and my name is Chief George Kakeway from the Wauzhushk Onigum First Nation, known as Rat Portage. My Indian name is Nekonipenace. My clan is the Caribou. I'm also the chairman of the chiefs' committee on economic and resource development, mandated by the chiefs in assembly.

With these brief introductions, I will turn the table to the area Tribal Chief Willie Wilson for the balance of the presentation.

Chief Willie Wilson: Thank you very much, George. As well, I'd like to introduce myself. My name is Willie Wilson. I'm the tribal chief of the Fort Frances area, which consists of 10 communities in the area. I'm also the president of Mitigonaabe, which services all of Treaty 3 in forest management advisory services. I'm also the chairman of the National Aboriginal Forestry Association. My Indian name is Sinii-ni-nii. My clan is the Duck.

We are pleased to have this opportunity to speak with this committee. We are elected representatives, so we recognize the importance of answering to the constituents and trying to keep promises in the face of conflicting demands. We mention this because, in spite of the fact that the present government of Ontario says it recognizes our inherent right to self-government, most of our dealings between the elected representatives of first nations and the government of Ontario are usually with civil servants. Bureaucrats generally have different priorities than the ones elected people have. Despite this fact, Ontario legislators and first nations leaders alike are to some extent captives of the bureaucracy.

Over the past 10 years, the federal government has shifted responsibility to the province of Ontario for a number of aboriginal issues. Examples: rights, claims, social services, jobs and justice. This shift is not reflected within the provincial legislation and instead policies with permanent implications are made by bureaucrats.

We are not saying that the province should take over Canada's legislative duties, but Bill 171 illustrates that the legislators of Ontario are circumventing treaty and aboriginal rights. Recently, Howie made that statement, that that is federal jurisdiction.

In Bill 171, first nations are defined as bands within the Indian Act. This outdated piece of legislation in no way reflects our territories and our continuing jurisdiction of the lands and resources within the 55,000 square miles of Treaty 3. This is not to say the crown has no jurisdiction because in the treaty we agreed that the European settlers could enter our land. We made this treaty with representatives of the crown, but Ontario used it as a licence to take over our land and resources, which made us the poorest people in the province. Ontario's position is that the treaty was made by the federal government and isn't binding on the province.

We've been asking the province to sign a statement of respect recognizing that Ontario is bound by the terms of the treaty. This has not occurred. We urge this committee to examine that unacceptable situation.

As an example of our rights being ignored, you might refer to section 2(a) of schedule 2, An Act to express the Consent of the Legislative Assembly of the Province of

Ontario to an Extension of the Limits of the Province: "2(a) That the province of Ontario will recognize the rights of the Indian inhabitants in the territory above described...."

This territory above described is the part of Ontario added in 1912, north of the English River. This is still law but is no longer published in the revised statutes. What justifies such an omission?

A large part of our treaty territory lies north of the English River but Ontario carries on business as if first nations and our rights are non-existent. For example, Ontario has announced potential strand board mill developers in this area with no input from first nations. Has Ontario advised these potential investors of the financial ramifications if Treaty 3 first nations' rights are not honoured?

The Environmental Assessment Board in the timber hearings ordered negotiations with first nations during forestry planning. Attached is a copy of condition 77 of the board's order. The Ministry of Natural Resources has stated it recognizes its obligation in ensuring that its programs address the terms and conditions of the board's order. There have been no such negotiations and the Ministry of Natural Resources carries on its activities ignoring our rights.

The Ministry of Natural Resources has a monopoly in the north and abuses it. The powers under the Crown Timber Act and related legislation created this monopoly. Bill 171 will only serve to strengthen that monopoly.

The sale of timber has always been essential to the provincial treasury. This has meant that the decisions are made for short-term objectives of the cabinet worried about the next election and the deficit. It also meant that the Ministry of Natural Resources' apparatus has become a processing operation situated between politicians needing money and good news and the forestry industry needing cheap trees. Nobody is watching out for the forest. Just as southern Ontario was stripped in the last century, northern Ontario is being stripped in this century.

The Anishinawbe people of Treaty 3 have special relationships with land and resources. We are the stewards of this land and it's part of our spirituality. If our treaty and aboriginal rights as outlined in section 35 of the Constitution of Canada were respected, we could work together and agree on how to manage the forest. Such an agreement would have to involve a commitment by Ontario to respect our treaty rights and include provisions for revenue-sharing and the creation of trust funds to ensure that damage to the forest can be rectified. Under section 20 of Bill 171, the authority in agreements with first nations still resides with the minister and there is no provision for first nations' jurisdiction. This is totally unacceptable.

On issues where joint action was absolutely essential, such as the Environmental Bill of Rights, we were limited in our ability to participate in a meaningful way in the structuring of the legislation to address first nations. Bill 171 is no different.

There are no jobs in our first nations, while surrounding white communities thrive on forest contracts from

Queen's Park. The best Ontario can do is talk about employment equity.

Instead of Bill 171 saying our rights will be respected, it says they will be neither increased nor decreased by the legislation. The Constitution and the courts have made it clear that Ontario cannot decrease our treaty and aboriginal rights. Why is section 5 included in the bill? We state Ontario has put it there to protect itself against any interpretation that our rights might somehow be added to.

Bill 171 is part of the long history of colonial takeover of our territory. We are the only people in Ontario whose property rights are systematically abrogated. Does this committee have the authority to force revisions to this legislation to properly reflect the jurisdiction of first nations? If so, we would enter into forest management agreements. This would mean development of a forest management practices code which would take into account Anishinawbe values.

It would also provide for protection of our traditional uses of resources, sacred sites and our domestic requirements for products from the land. It would also protect our treaty rights such as trapping, fishing and hunting, and dealing with land claims. Presently there are land claims in respect to large tracts of our territory. Huge sums of public money are being spent to fight the claims and treaty and aboriginal rights to lands and resources. These claims are ignored as Ontario goes about its business of selling off the public forest.

For the record, we are opposed to Bill 171 as written. We have not been consulted about it as the law requires. It abrogates and ignores our treaty and aboriginal rights. It is part and parcel of a continuing theft of our lands and resources, and dishonours the crown and the people of Ontario.

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The Vice-Chair: Thank you for appearing. Mr Hodgson will have some comments or questions on behalf of the Conservative Party.

Mr Hodgson: Thank you very much. There are a lot of people who share your concern about expropriation of land, and I come from an area where wetland policies and these others are seen as an infringement on their land as well. I'm not an expert in this field and I'm not a lawyer who's been around the constitutional debate, but I just have one question. When was Treaty 3 signed?

Chief Wilson: In 1873, October 3.

Mr Hodgson: Okay. This is just mainly information that I'm asking for, but in section 35 of the Constitution that was brought back to Canada in 1981-82, aboriginal rights were undefined but were moved ahead of federal and provincial law. Is that correct?

Chief Wilson: Yes.

Mr Hodgson: But there has to be a provincial interest for all the people of Ontario in terms of defining what conservation is.

Chief Wilson: The definition of that act has not been defined such that it's agreeable. In principle it's there.

Mr Hodgson: In principle, but nobody has defined what conservation is for all the people of Ontario.

Okay. This is a sustainable forestry act for all ecosystems. Surely that would be consistent, in the motherhood statement that it is, with the motherhood statement of conservation of Ontario's resources, would it not?

Chief Wilson: I think if you're taking a real close look at what this act and the authorities of people—I just want to give you one example, and I also want to share with you that I did sit on the audit for the boreal forest as one of the three members who were appointed by the Ontario government. In doing that, in accepting that position and accepting the conditions of that position, I served as a committee member. In the observations in my association with various forest practices, I've been involved in the national—in fact, I'm involved with a national piece of legislation right now that deals with first nations. RPFs, registered professional foresters, I believe should be independent, because at the moment right now foresters who work for companies are there for the company.

Companies are telling these foresters, "Get the wood to the mill as cheap as you can." Foresters who work for the province or for governments are saying, "Protect my butt; that's what your job is." Yet we have foresters who know how to manage forests that we're not utilizing independently. I think that's something we should be looking at and I think that this act does not address a lot of that.

There's a lot of motherhood statements in there. It certainly doesn't answer to the rights issues that we talk about. The government of Ontario certainly doesn't sit with us and ask us or even negotiate or even talk to us at a table and say, "What the hell do these things mean?" You are showing that ignorance of not understanding what our rights are.

Mr Carr: Thank you very much for your presentation. Up to this point, have you been involved in the drafting of the bill? Have you been consulted up to this point? There have been some groups that were involved in a workshop for the regs. Have you been involved yourself at all?

Chief Wilson: No, I haven't. Neither has our territorial organization, which is Treaty 3, and our tribal council. There may have been some questions or letters written to various bands. You know what that does? It divides and conquers our nations, and certainly that's not acceptable. That's not consultation. When the government of Ontario or the Minister of Natural Resources puts it into a newspaper and says, "This is what we're going to be doing," that's not meaningful consultation.

When I make reference to meaningful consultation—as you know, we are the poorest nation. We don't have the kinds of resources to be able to address in your terms, in the language that you understand, in the method that you want to understand. I'd like to have that dialogue with you, but I need the resources to be able to do it as well. No, we have not.

Mr Carr: One other question too: You said you sat as part of the audit and I just wondered if you could give us a general overview of what you found. Obviously there isn't much time to do it; it would take a long time to get into much detail, but basically, as one of the members who sat looking at the audit, if you could sum

it up, how would you say your impression was of what you found?

Chief Wilson: I think if we're looking at the last generation, certainly the industry has improved. If we compare industry to government, industry has improved tremendously, a lot better than government has. The reason for that is because of the bureaucracy. I think, just in those observations, we can do a lot more.

But at the same time, when we look at the ecosystem and we look at the values of first nations—and I try and compare those. I think we have 478 trappers in this area, for an example, who have now formed an association who are telling me, "This is what's happening to our fur-bearing animals." In doing a management plan, we should be incorporating those interests. We should never be in a situation where we're cutting out the trappers' livelihood. I can give you an example right here in this area, in this territory, and I can give you a lot of examples throughout Ontario, throughout that same area, where we have cut out those trappers, we have cut out the livelihood of tourism, we've cut out a lot of spiritual areas. We've cut a lot of history out of Ontario without even thinking.

You talk to me about the audit. I think we have a lot of work to do. There were recommendations made by the audit team and today I have not seen that taking place. It's been accepted, but where's it at? I think this process may help that.

Mr Bisson: Thank you very much for coming to us and presenting today. I guess my first question is that I hear what you're saying in regard to native people really feeling as if they're left out of the process. I think by and large that's true; over the past hundred-and-some-odd years in this country, we don't have a very good record when it comes to dealing with our first nations and we need to do better. But I ask myself this question, that through the entire travels of this committee, I believe, and I may be corrected here, you're the first aboriginal group to present to this committee. I understand, coming from northern Ontario, that the forests and ecosystem in itself is very important to the people who live within my area who are members of a first nation. Why are you the first?

That's a dangerous question for my part. I'm going to get in trouble here, I know it.

Chief Wilson: I don't want to put you through a history lesson here. Obviously, you admitted to the ignorance. I think you should try to educate yourself, since you represent the people here. You probably are representative of some of the first nations people in your own territory. I think you should be talking to them. Why are they not doing it? Let me give you some examples why not.

We don't have the resources to be able to come to these kinds of things. We don't have the resources to prepare these kinds of papers that you talk about. I'm willing to sit with you, but you've got to be willing to listen. If the time and the resources and the kinds of constraints that we have in our own first nations are provided, then I think we can meet your kinds of demands, we can meet your kinds of schedules, but I think we need to sensitize you as well as educate you where we're coming from. The balance sheet of our

resources does not change. The balance sheet of industry does not change because of that. But I think there is going to be a different method of managing our forests if you listen to us, if we listen. I have to take your concerns into consideration as well.

1020

Mr Bisson: I appreciate your answer because I did communicate with native bands in my area, and that was the answer I got, saying: "We have a whole bunch of other things to do and now you want us to come and present. We're still trying to put sewers and houses in our own communities and you want us to talk about the forest." I think you're right; the point is well taken.

I want to bring you back, though, to section 20 of the act. You made the point—and I'm not going to quote this—under section 20 that it abrogated your rights, I guess, to the forests. Maybe I'm reading this differently than you and maybe I need to hear what you have to say. The way I understand section 20, what it means is that it, within part II of the bill, allows the minister to enter into an agreement with a first nation if they decide that they want to develop the forest in their area that's under their jurisdiction and that a management board be formed, an FMA, the same as any other forest company. How do you read that? Maybe I'm reading it wrong.

Chief Wilson: Is that what you read?

Mr Bisson: That's how I read it.

Chief Wilson: Let me tell you what I read.

Mr Bisson: Tell me what you read.

Chief Wilson: Let me give you two differences, and I'm using your language.

Mr Bisson: I should know better than to spar with you.

Chief Wilson: First of all, this word says "may." Forget about it. But if you said "shall," that's a different meaning, right?

Mr Bisson: I'd get into an argument with you on that one.

Chief Wilson: Now, I'm trying to use your language to justify my—if we were talking in my language, you'd have some difficulties as well. I think there has to be something definite, that it "shall enter into agreements when applicable."

The Vice-Chair: Mr Wood has some questions.

Mr Bisson: Can I just respond—

The Vice-Chair: I think we should give the parliamentary assistant some time.

Mr Wood: Thank you very much for coming forward with your presentation. Coming from Kapuskasing and having native people living all around me in reserves on either end—New Post and Constance Lake—there are a number of agreements that have been reached through the development of cogenerating power, through the development of tree planting agreements, through the development of harvesting operations in the Cochrane area, around New Post and in Constance Lake, in conjunction with Lecours, and I think there are agreements that 50% of the workforce shall be aboriginal people in the sawmill operation. There are agreements that have been worked

out, and they're involved in the local committees.

I just want to get a reaction from you as to the movement that has been taking place in the last few years there as far as trying to use our resources to create some employment and create some stability in the aboriginal communities is concerned, if this is the direction that we should be continuing to push further in. I'm really referring to section 20 of the act. You're saying that the word "may" is in there; I'm saying that the word "shall"—it is happening out there in agreements that have been worked out with MNR, with the government, with local committees. If you want to comment on that, thank you.

Chief Wilson: Not to be—I'd better forget this next statement.

Obviously, you have something to offer. I think you should share it with the rest of the country. If they're doing it in one place, then obviously it can happen somewhere else and some of those agreements can be improved upon. Usually agreements, the first agreements, are there to improve on. I think you can improve on those kinds of things.

I'm not talking about an agreement between two people who are there for the profit of that venture; I'm talking about the saviour of a forest. In our situation here, our treaties, I believe, if given the opportunity—and I think you will see that in the near future, if we have to use your court systems and if we have to use other measures—are going to be the protector of these lands. If we have to force that issue, then that's what we may have to do.

But I think that the kinds of agreements that you're talking about, we can easily do them inside here. Let me give you an example of how we are living in this area. Here we are with the Minister of Natural Resources from this territory. I have a sawmill in my community that does not even have timber rights. Can you imagine that? We have to buy from the open market. Here's an order that was told to the government of Ontario and still it's happening today.

We have other situations. We can give you plenty of examples of where the government of Ontario is ignoring this order. We need to talk about that. Let's not talk about it in the newspapers. Let's not ignore your responsibility and try and slough it off back to the federal government or whatever. Let's talk about it. We're reasonable people. I want you to understand that; I hope you understand that.

Mr Wood: Yes, I understand that fully. Thank you very much for the presentation this morning.

Mr Michash: Thank you very much, Chief Kakeway and Chief Wilson. I thank you for the presentation as well. You've certainly brought a varied view to the hearings. I go back to page 2 of your presentation, where you're talking about the request for the province to sign the statement of respect. I think it would be interesting for us to hear a little bit more about that and your views on that.

Chief Wilson: Since this government has taken over office, we had a vision with this government. It had made

a lot of promises to us and our hopes certainly were up. We tried to develop mechanisms on how we can even talk to this government. The Statement of Respect was no different than a lot of other methods in being able to say to the government: "I want you to listen to me. I want to be able to listen to you."

In the signing of our treaty we said, "I will lend you my son for you to use, but I will also want to take yours for me to use," and that's really what we're saying. The Statement of Respect by the government of Ontario, this NDP government, certainly would have said to us: "We are prepared to sit down with you. We're prepared to respect your government as we want you to respect our government." But there has to be a process. It does not change. What we're trying to do is improve the conditions of this country. We just went through an economic crisis, and when we go through an economic crisis like we have, who is it going to hit the worst? It's the poorest people of Ontario. And who are the poorest people of Ontario? We are. This gentleman asked me why some of these people are not coming here. Ask yourselves that.

We've had other mechanisms that we've introduced to this government. Yes, we've had ceremonies, but that's the end of it. We don't do anything else after that except the fact that: "This is what we have done for the Indians. We have signed a piece of paper. Now we're going to recognize," or, "I sat with some Indian." Well, that's got to stop. We've got to get some action.

Mr Miclash: I appreciate that. As you know, I represent part of the Treaty 3 area and of course I would be quite interested in hearing more about the financial ramifications if Treaty 3 first nations' rights are not honoured. When you talk about the strand board mills, if you could maybe expand on what you're meaning there. Do you want to do that?

Chief Wilson: Let me expand on the order itself. We have 55,000 square miles in the area of Treaty 3. You have within the government of Ontario FMAs which are coming up very shortly. You have crown management units which are up for discussions. We need to participate in those discussions in a very meaningful way. We require the resources to participate meaningfully.

Just to give you an example, we have only one first nations female forester in all of Canada. We only have five or six foresters we can go to in all of Canada. Now, when we ask these people to come and help us, they do it at their own financial risk, because we can't afford them. That order said, in (a), it's to provide opportunities and income associated with bush and mill operations in the vicinity of aboriginal communities.

These two mills are within 55,000 square miles, within the 25 communities that it's going to service. If we take that order, then this committee I think has to do something to make sure the government of Ontario is talking to the first nations about some of the rights issues I talked about and certainly should not allow industry to become the liability of this government.

1030

It also says, in (b), "Supplying wood to wood processing facilities such as sawmills...." I've given you that one

example. Do you want more? We can provide that.

"Facilitation of aboriginal third-party licence negotiations...." What's wrong with an Indian being party to some of your licensing? What's wrong with the first nations becoming a beneficiary of some of that licensing? That's all we're asking.

The Vice-Chair: Thank you very much. You have certainly raised some very, very important questions that will be a challenge to the committee members to deal with. We're continuing the hearings next week in Toronto and then there will be clause-by-clause in the middle of September and then of course there will be further debate and discussion in the House when it is brought back to Parliament. As I say, your presentation was the first one from the native community and we certainly appreciate the viewpoints that you have brought forward.

Chief Wilson: Just one last comment: I hope that your democratic process does not prevail, where if you have 100 other people who've made presentations compared to one first nations, those 99 people prevail in the recommendations.

NORTHERN FOREST COALITION

The Vice-Chair: The Northwestern Ontario Tourism Association has cancelled. However, the Northern Forest Coalition is represented and Mr Bob Axford is willing to make his presentation now.

Mr Bob Axford: My name is Bob Axford. I'm a consultant for the Northern Forest Coalition.

Ms Joan Goule: I'm Joan Goule, the wife of a contractor and a member of the coalition.

Mr Axford: Joan is going to read some of the presentation into the record. We've handed copies out to all of you. If anybody doesn't have one, I have one here for you, and we have additional for the press if they require it. Joan will speak to some of the issues of operation and I may want to speak to some of the issues of policy.

Ms Goule: Developed during the last two years as a desperate measure to prevent frontier independent contractors from becoming extinct, the coalition has come to represent an alternative and informed voice, particularly on issues of socioeconomics in resource extraction.

The coalition has generally taken the position that people who work in the bush traditionally, for a number of reasons, get very little say and very little involvement in the timber management process. As a result, there is a tendency to formulate extraction policies based on input primarily from consumption officials, both private and public. Policy written by default has had some dire consequences to frontier employment and investment, and the Bill 171 before the committee again poses such future possibilities.

Generally, we view new legislation as necessary, but this Bill 171 is premature and lacking in a philosophical and cooperative approach. It seems to be an exercise in control, not an exercise in management. Considering that many of the backup regulations are incomplete, it allows for a great deal of emphasis shifting from where the almost innocuous document sits today.

As for risk and potential liability, in the northwest

some big companies cut almost nothing themselves, instead depending on an assortment of little guys to do the job. The production of timber, particularly for smaller operators, is difficult at the best of times, and relationships with financial institutions regularly shift from one crisis to the next. The potential implementation of massive and high-security-level compliance penalties may just be the straw that stimulates another round of shutdowns for a few more hardworking northerners.

As an alternative, we suggest more of a reliance on site-specific contracts, in that the errant operator has an obligation to make a situation right to the person or group or piece of ground offended, rather than simply having the province operate the penalties as a cash cow for general revenue. There is no backup documentation on the calculation of financial penalties, which in itself arouses suspicion. But if the ministry's intention is to drive someone out of business, which is happening, why not do it by removing or reducing the licence?

The proposed formidable penalties not only take down the company but, because of the priority level, all of the operator's myriad of related local creditors too. If penalties to this degree are really necessary, let them be paid back to the district for silviculture, make them reflect the size of the operator, and have the recommendation for penalty reviewed with the new citizens' committee.

There are numerous natural risks unique to timber harvest, such as fire and weather and insect infestation. Nature is tough and undeniable, but the government adds a few more and not-fully-necessary wrinkles like land withdrawals for wilderness, native issues, old growth, areas of concern, moose corridors, caribou grounds etc. The new problem now is the cumulative cost of compliance consultation. Nobody minds getting the public involved, but it is the ministry itself that has no respect or appreciation for the operators' valuable time.

With all of these additional demands, there is an added element of something business abhors: unpredictability. Lately, with the reorganization to improve client services, untrained, non-timber personnel are called on to deal with timber issues. They either tend to lose their common sense with a by-the-book, knee-jerk reaction or, worse still, the operator will be shut down waiting for a decision while the wizard ponders at his convenience.

The situation is already bad now, and unless there is a brand-new attitude, the new bill looks like it will make consultation coagulation even worse. The point here is that in an industry struggling for existence, there is a rapidly escalating cumulative compliance cost that MNR is almost totally responsible for and yet totally oblivious to.

Scaling: This is a highly contentious issue. MNR should either get in or get out. What would happen all over the rest of the province if food, which is sold by weight in pounds, had no standard and everyone was allowed to bring their own scales to the grocery store with their own version of a pound? There would be chaos and commercial relationships would break down. That scenario, as preposterous as it sounds, is pretty close to what is happening in timber. MNR has abdicated its responsibility on scaling, and the horror stories abound.

Mr Axford: I'd just refer you at this point to the last yellow sheet on the presentation, clearly indicating that they will not enter into or arbitrate scaling disputes of a commercial nature.

Ms Goule: The MNR has said they are not responsible. We think they are irresponsible.

Currently, there are some operational problems regarding metric, common factors and the weigh factors. When dealing with these evaluating tools and when considering redocumentation of the scaling manuals, we hope that you will write these in layman's terms.

1040

Mr Axford: The other example that's on there is on your white sheet, the second-to-last sheet. It'll give you an indication that—I think we checked a run with one operator of 42 loads, and 90% of those loads had a cull on it—90%. The guy's sitting in double jeopardy. If he doesn't pick up the stuff in the bush, he's going to get tagged out there. If he takes it in, he's going to get culled for it, so he's got a problem. That is a typical example and it gives you some indication of the same-size loads going to different locations and all the different values of them.

Ms Goule: Since MNR has determined it will do nothing, then the least that should happen is that the bill should create some linkage with the Ministry of Labour to arbitrate the facts. For half a dozen types of scaling there are probably 100 pages of description, but for mass scaling, which is the only way almost every stick of wood in the northwest is measured, there are only two pages. None of the conversion factors and cull rates are documented or dependable.

As a further matter on scaling, we can find no reference to the highly questionable situation when a person or a company has an impartial scaler's job and has direct pecuniary interest in the outcome of the scaling result.

Trust fund: Because the government, of all stripes, has such an appalling record on silviculture, we are in favour of some type of trust fund. One of the key reasons for the creation of FMAs was the government's failure to do reforestation. Because the government took the royalties and spent them elsewhere, officials decided to remove the temptation by making industry itself responsible instead and FMAs became the solution. Even in recent years, and in spite of whopping and punitive increases in stumpage which were so extortionary that many operators shut down, revolted and teetered on bankruptcy—in spite of that crazy cash grab, the funding for regeneration still seems to be continually cut back.

How can anyone be assured things will change? There is absolutely no backup documentation on the trust fund. To begin with, there is a question of funding remedial work. The cost for this activity should be borne not from present harvest area and stumpage charges but from general revenue where the original stumpage money went in the first place.

Mr Axford: That's an important concept that hasn't showed up in your other documentation from other presenters. You might want to think about that one.

Ms Goule: Secondly, we fear that the current practice

of funding silviculture and regeneration nearest the production facilities will continue gradually eroding the long-term productivity of outlying areas and with it any possibility of production facilities moving further into the frontier. This is both environmentally unacceptable and, on an issue of equity alone, is patently unfair.

In another vein, will the introduction of new revenue diminish the operational budget of MNR itself? If so, we can expect a further degradation of the forest, particularly in the frontier, and the fund will never deliver as intended. Will the fund be treated like fishing licence revenue and be used for enforcement and not enhancement? Can the minister of the day decide that something in downtown Toronto or some other unrelated partisan proposal is a legitimate cause for a disbursal from the trust fund?

From still another angle comes the question of a small operator being forced to do silviculture on his own cutting area. Cutting and getting the wood to the mill is one thing, but the capital investment and skills required for such things as scarification and replantation is another. There are many open questions, the first of which has to do with money. How much does he get paid? Does he have the right to default, and at what cost? Does he have the right of first refusal to contract the work to himself?

Although we are generally in favour of a dedicated fund, this bill needs to be much more explicit about its composition and management.

The class EA process: Frontier people, and Red Lake people in particular, have had a very long and thoughtful involvement in timber policy way back to the West Patricia land use plan and the Royal Commission on the Northern Environment. The EA finding said it heard us loud and clear.

This proposed bill and its attached backup are most seriously and probably fatally flawed in the EA area. If this bill is supposed to reflect the EA, which of course the law requires, somebody had better go back to the drawing board. What is happening on socioeconomics? Do you think all of our hard work to get these included has been forgotten? The board made some very specific recommendations based on testimony that, for example, illustrated the unfair difference in tax bases alone for production versus consumption communities.

Further, where are the promises to do more socioeconomic analysis? In spite of the board ruling that allocation of benefit is a legitimate concern, we believe the same old players are continuing to play the same old game with impunity. Allocation issues are being dealt with right now by the same people behind closed doors, which will preclude any reasonable hope of change. How is a person to have any faith when this happens?

If the MNR were serious, we believe that with our help this component of their operation could be fixed. Unfortunately, they have not been interested. In fact, they have had to be dragged kicking and screaming for as far as we have already come, and we have great concerns about recidivism. Not only does this bill need to reflect the spirit of change; also there has to be a mechanism for constant evolution. Our view is that both the letter of the

law and the spirit of the law should reflect the benefit of the people it seeks to serve. This must be remedied.

On self-management: Speaking of having faith, how about the management of crown units? Who do we really expect to police these? Who will be accountable for errors—the district cutter or the limit operator, which I believe in this case you're talking about the ministry—

Mr Axford: It could be viewed as MNR being the limit operator.

Ms Goule: A solution to this problem might be to directly allocate the crown unit to the nearby community and thus avoid the obvious accountability conflict. An alternative is to remove the enforcement arm from the MNR entirely.

With the citizens' committee, we applaud the bill's efforts to drive problem-solving down locally, but dispute resolutions are still weak. An element of cost or risk would stimulate solutions more urgently.

By and large, the majority of MNR people are pretty decent, but everyone knows there exists a small vocal minority of provincial employees who are not. To what extent will the citizens' committee be able to influence a determined individual on an operational basis? Secondly, what about the requests for bump-ups in situations where the parties are blatantly opposed? Will the MNR scuttle such a request politically? Would it not be better, particularly if the consumption region overrides the extraction district, to grant a mandatory bump-up when and if 90% of the citizens' committee concurs?

Further on the citizens' committee, it is unclear how the reps will be chosen. There could be potential biases, such as the district manager appointing half a dozen quiet "yes men." We suggest election from sponsor groups and automatic appointment if the candidate abides by preset obligations to tolerable and civil practice.

In conclusion, with the notable exception of unmitigated stumpage increases, we do see some signs of improvement in the MNR, particularly under Mr Hampton. We are, however, petrified that once the bill is passed and once attention is diverted, we will be back to business as usual. Ontario's timber is an important resource which can produce a multitude of benefits in employment, royalties, taxation and trade balance, but only if the ministry stops deliberately dissociating its management leverage actions from the consequences of business relationships.

MNR has treated business relationships in a very cavalier fashion. There are more than just a few times that MNR has acted like a loose cannon, clueless as to the consequences. As they tinker and tamper with the pieces that make up our resource economy, our demand to them and to you, as you craft this bill, is to be ultrasensitive to socioeconomics.

Frankly, the north cannot afford MNR's current arrogant and lofty approach. We urge you to view carefully the fragile but viable base employment harvesters create in order that we may go on producing and hiring and contributing for ourselves, our direct employees, our spinoff service activity, our local communities and the province as a whole.

This legislation, Bill 171, should be tabled or withdrawn until the rest of the pieces are attached or until either the MNR or some other ministry is prepared to deal with socioeconomics, exactly the way the EA ruling specified.

1050

Mr Axford: I'll just refer you to the ministry's own publication, the Economic Impact of Logging in Ontario and Regions. On page 10 of that publication, the top graph, you'll notice that the ratio of the amount of activity in logging to other activity it creates is almost nine to one. Second, on page 18 of the same document—again, from the government's own publication—it notes that the benefits accruing from activity such as logging in the northwest accrue not locally but about three times as much provincially as locally and, again, about four times as much federally as locally.

We're trying to fight for an industry that's out there, but for goodness' sake, we're fighting for more than the people who are there. There's quite a bit of spinoff benefit in this thing that people ought to realize, and it's extremely fragile.

We've shortened up some comments on the Carman exercise, but I would suggest to you that the Carman exercise is generally something that's dealing with business relationships throughout the industry. This bill, Bill 171, doesn't reflect any activity of the Carman exercise, and as such it's really difficult, because the bases of socioeconomics are what business relationships are existing out there. How many people have got jobs? Where are they? How stable are they? Those kinds of things. That's part of the Carman exercise. It's not reflected in here. We're kind of concerned about that.

There's an issue of harvester versus purchaser that has to be dealt with, and I know there have been some discussions about such things as graduated stumpage. None of that showed up, so we're a little on the concerned side.

But to shorten it up, we want to stop about there and give you an opportunity to ask some questions.

Mr Wood: Thank you very much for your presentation. Just on your last comments, my comments and questions are going to relate around what you referred to as the Carman exercise, which in today's standard is very similar to the FMA agreements that were negotiated and put in place. They don't necessarily reflect in the timber act of 1952, but they were business relationships and negotiations that took place.

I can assure you that negotiations are very intense at this moment. They are continuing, and the attempts of Bob Carman on behalf of the government are proceeding and hopefully agreements will be ready to have ink in a very short period of time.

On the second page of your Carman exercise there are comments that the battlegrounds you have seem to be between the independent loggers and the operators and the large companies. In one comment you're saying that they take very little wood during the wintertime, and then all of a sudden during spring they wake up at the end. You're saying that—

Mr Axford: Some of those things are put in there to illustrate that there are some problems. I don't want to dwell on the problems.

Mr Wood: Yes.

Mr Axford: I want to illustrate that the government has a role here of keeping some order in commercial relationships. The private sector can worry about how they're going to relate to each other if there are some standards or some order in it.

Mr Wood: This is the question that I want to put to you. You're saying that there are problems, as you've related to us. What is the answer for them to resolve those problems that there are between the independent operators, the workers who are out there with the large companies? How should we deal with that in Bill 171?

Mr Axford: This is a really hard question to answer in 10 seconds, but two of the simpler solutions are to look at something in graduated stumpage by distance. You've got to do something in there. The second thing is that there's got to be some order and some standards as to how big a cord is. Then you can have some comparisons of who you're selling it to and whether you're getting your buck for it. When everybody has their own measure of what a cord is, you've got some problems.

Mr Wood: Scaling manuals are part of the new act.

Mr Axford: I don't want to get into the technical side of it, but I can tell you that it's pretty clear that at some scales you'll get what loggers would consider a good scale and at other scales you'll go "awk." You just know you're going to get beat.

Mr Wood: In your presentation, once again, it's in the Carman exercise saying that people too far away from the community are delivering wood or taking contracts from around this area and it's not economically viable for them to do it.

Mr Axford: No. If you're at the outside of the working circle, it's tough for you to run across to the other side of the working circle and work. You can ease it. You can probably live in Dryden and harvest out of a number of areas quite easily, but there's no benefit to those areas. I would probably take roughly the same argument as the native groups, that there ought to be some benefit to communities somewhere.

Mr Wood: How do we resolve that?

Mr Axford: That's going to take more than 10 seconds for me to answer. But I'll be happy to work on that with people who are seriously interested. I think the argument we make in this paper is that we need MNR to take it seriously that this has to be resolved. I haven't seen that attitude yet.

Mr Mammoliti: Thank you very much for coming. I just have one question. It relates to a comment that you made earlier, and it's a pretty consistent comment actually. I'd like an answer to it in terms of how it relates to the bill. A number of people, when they're in front of the committee and they talk about the relationship between them and the MNR civil servants, always say: "There are a lot of nice civil servants; there are a lot of nice staffers. However, we have some problems with some of them." I'm hoping that you might share with us

some of those problems and how that might relate to this bill. I still haven't heard that. Even though I've heard some criticism, I haven't heard how those negative comments would pertain to the bill. I'd like you to elaborate on that.

Mr Axford: Yes, I will answer that. The answer is that we're probably not going to answer it, because the instant I give examples or Joan gives examples, somebody out in the field is going to pay the price. There is an intimidation level that is just unheralded.

Mr Mammoliti: Okay, and I respect you for that. I just need you to understand that you come in front of the committee, and a number of you have done this, a number of individuals have come to the committee and are critical about the relationship they have with MNR and yet have been reluctant to tell us about what those problems might be. I think that's a little bit unfair to the committee.

Mr Axford: It is. I agree it's a problem.

Mr Mammoliti: And to the staff, for that matter, as well.

Mr Axford: Yes. Even as an outside consultant, I have difficulty giving them to you because I know I expose a client every time I do it.

Mr Mammoliti: Okay. I just thought I'd mention that.

Mr Axford: Joan, do you want to respond any differently than that?

Ms Goule: No. I was not the writer in this and I would like that to be documented; I am only reading this.

Mr Miclash: Bob and Joan, I too thank you for your presentation this morning. It's always good to hear from the good people of Red Lake. You certainly do bring forth the perspective of the independent logger and the independent person out there. I think it's something that we must learn more about and hear more from.

I'd like to start off by going to the trust funds. You indicate in your presentation that you're in agreement with the trust funds. I must agree with you that in terms of the backup documentation that we're looking for, it's not there. I'm looking for a little feedback from you in terms of how you see the setup of these trust funds and how you see the money actually being reallocated to the resource.

Mr Axford: I'm not quite sure what you're after, but what we wanted to do is see what MNR's documentation would give us on it. There just wasn't any to even read, but we're scared it's going to end up essentially like fishing licences, where they lean towards more regulation by more enforcement. It doesn't deliver more fish on the ground or more trees on the ground. There should be some accountability. I think a number of people have referred to the issue of, what is sustainability; what are we going to grow?

We're in favour of motherhood, yes. We'd sure like to see what it means on the ground.

1100

Let me give you one example, and this is partly in response to Len Wood's comment: If there's stumpage

paid in the Red Lake community, let's see some of that stumpage go back to the silviculture in the Red Lake community. There's no guarantee of that, because there's simply no guarantee of anything here.

It just needs more fleshing out, and you can't really make something into law that leaves itself so unclear. I think there are people willing to make suggestions. I'm not trying to make a whole bunch of suggestions today; I'm trying to say, "Look, this is a problem area before you go any further."

Mr Miclash: As you probably know, in Thunder Bay we heard from an independent contractor. Just quoting him out of what was under the heading "Plans for Forests Could Kill Area Jobs," he indicated as an independent contractor that the bottom line is it's going to kill the little contractor. I just wanted to get some more feedback from you on some of the costs that you see it adding to the little contractor and how you would agree with that statement or disagree with it.

Mr Axford: I think one of the ones that are in this document have to do with administrative penalties. That's the first and most obvious one, if it goes to \$15,000 and doesn't require an outside body to look at it: \$15,000 will wipe out a number of our local contractors, and the difficulty we tried to illustrate here, which is a new one, is that because of the level of security of a government penalty, it comes above an unsecured creditor like the gas station in the community. So what you're really doing is punishing somebody somewhere down the line. If you wanted to regulate the guy, there are other ways to regulate him. There are contractual things you can do, but just taking one item, the penalty itself, that risk is going to make the bankers just scary. We're already in trouble. Joan, do you want to answer that better than I do?

Ms Goule: I was just going to say, Frank, as you know, we've been back and forth about this stumpage fee and right now we don't even know whether or not we're going to be able to survive the high rate of stumpage fees and area fees right now. If they do impose these high fines like this, and we're struggling the way we are right now with the stumpage fees and area charges, it would just automatically put people out of business.

For most of these infractions, and I can talk from experience, I know of one where we had someone cut over the line. Our branch in Red Lake actually closed us down. We couldn't haul or anything. In fact, I think I spoke to you about that.

Mr Axford: There you go, George; there's one for you.

Ms Goule: We were down for quite a while, because they just didn't really know what to do, so we were not only losing money because we couldn't haul wood, we couldn't cut, and they couldn't decide what the penalty should be. If they do go to this, they're going to be having higher penalties yet. They'll just automatically close the doors.

Mr Miclash: I appreciate your reiterating that point, Joan, and the minister is here to hear that today. Again, you come up with some good points as to how this is going to have an effect on such operations that you're

talking about, and I appreciate those.

Mr Axford: If I may, Mr Miclash, the ones most at risk are the ones that are on the periphery, that have a base there with a higher cost level, because they just can't move elsewhere and they can't do anything else.

Mr Hodgson: I really enjoyed your presentation. It's right on. I've heard these stories my whole life.

To answer George's inquiry about specifics, there's a thing called government chill. Not everybody has the resources to hire Toronto lawyers, and when somebody says they may do this or they may do that as a work prescription, you've got to be nice to them, because as was mentioned, if you're out of work, you've still got the truck payments, you've got to pay the gas station and you've got the mortgage on the house and you can't afford five months off, because you want to know how to properly address this water crossing or to build your road in.

I really enjoyed your report on the cumulative costs of compliance. We've heard this from a number of small independents, and it's not just with this act, but there's a whole variety of regulations that have been implemented, and the operators' valuable time. We don't hear from many operators, because they've got to be out there working. I know the people in my area who are independents work awfully hard. They start early in the morning and go till late at night, and then you're expected to read reports and come in and make a presentation.

The scaling: Why has that not been addressed, in your opinion? It just makes sense to me that you would have a uniform scale. It's the same in my area. It actually works two or three different ways. You have to be fairly sharp at this business. If you own the land, you want to be sure of what you're getting. If you're cutting the wood and taking it to the mill, the margins are so small that you've got to be accountable for that. How come that hasn't been addressed? Do you have any opinions on that?

Ms Goule: I don't know quite how to answer that.

Mr Hodgson: It's addressed in every other industry.

Ms Goule: Yes, I realize it.

Mr Hodgson: Let me word it a different way, then. You've got a recommendation: The MNR either gets in or gets out. What do you mean by that?

Ms Goule: Like I said before, I did not write this. I think I would tend to be a little cautious as to what I'm saying about the bill from a contractor's point of view.

Mr Axford: You see, there is something at risk if you tamper with it. Somebody's profit is at risk; let's put it that way. It's real simple. And MNR has said clearly they have no interest in the commercial negotiation process. What we're saying very simply is: "Look, you're leveraging. You're moving things. You're causing things to happen. You've got to be sensitive to what's going out there. Even if it gets you into standards of weights and measures, at least you could go that far. But you must be sensitive to what you're doing, because you are affecting commercial relationships whether you like it or not."

That's the whole basis of this presentation. And they have just been dragged kicking and screaming into it. The

EA says you've got to do something about it, but they're not so interested and they're not in a hurry to fix that problem.

Mr Hodgson: The graduated stumpage charge, I can see how it can work on what's referred to now as an FMA, but how does it work on a crown unit where the wood is bought competitively? You've mentioned in here that it's becoming more of a service industry. I assume what you mean by that is you can market it other places around the province, other mills and—

Mr Axford: You can, but the major portion of the cost and the major variable in the cost is distance.

Mr Hodgson: I realize that.

Mr Axford: One MNR study clearly identified that as the biggest single variable. So if you want to do an environmentally balanced harvest, you've got to do something about changing the price of the far distant wood. In Red Lake we are two-and-a-half hours from Dryden and three hours from Kenora if you're driving in my car; a little bit longer if you're in a pulp truck.

There's a cost associated with that, and the mill essentially wants to buy that wood at the same price as wood that was 20 miles away. So you're going to have a hard time selling your product. Even though you've got a quota up there, you may not be able to market that whole quota. What we're saying is that the Carman exercise and a couple of other exercises in values were looking at the possibility of changing stumpage so that it would be more like BC, where it would have some reflection of distance. That would give you a more environmentally balanced harvest. It would also do a lot more for some of the outlying communities. It's a useful process.

The problem is that if you're going to do that, do you raise the price of the stumpage 20 miles from the mill to lower it at 200 miles? You've got a problem there. Somebody's going to pay. The minister's sitting with a revenue-neutral mandate. It's going to cost somebody. That's why you have the Carman exercise.

Ms Goule: You were saying about the dues there. We have a big problem selling our allowable cut, and if we don't sell our allowable cut, it of course goes to another contractor who can sell his allowable cut. Of course, the bigger you are, the more you sell.

Now, with stumpage, we have an opportunity to sell wood to Buchanan in Sioux Lookout—or Hudson, I believe. But when you take the distance of the haul and just everything in general, we cannot make a dollar on that cord, or it may be possibly \$1.10 or something like that. So we don't bother selling it. Before the stumpage fees went up, we did have a chance to make a little bit of a turnaround there, but not much. Now it's pretty well out of the question.

Mr Axford: So it argues hard for some rationalization.

Mr Hodgson: Okay. I follow what you're saying. Thank you, and I wish you well. I hope we can help.

Mr Axford: May not be back next time: got no players left up there.

The Vice-Chair: Thank you very much, certainly, for

your comments and for your presentation. You've given the committee a lot to think about. Again, we'll be continuing our hearings tomorrow in Thunder Bay still, and then another week in Toronto, and then clause-by-clause in the middle of September.

The next presenter has cancelled. This means we have a little bit more time for lunch. We are to be back by 1 o'clock.

The committee recessed from 1111 to 1314.

The Vice-Chair: This committee continues its hearings on Bill 171. Unfortunately, the presenter for 1 o'clock has not appeared as yet, and the one for 1:30 is not here, but it isn't 1:30 yet, so we'll see whether perhaps the Ontario fish association will still come. The Dryden and District Labour Council has cancelled.

BOISE CASCADE CANADA LTD

The Vice-Chair: The 2:30 presenter, Mr Paul Jewiss, whom we had the pleasure of meeting last night, is with us and he has agreed to make his presentation now.

Mr Paul Jewiss: I'm Paul Jewiss, chief forester for Boise Cascade Canada Ltd. The name on the document says Rainy River Forest Products. I'll explain what's happening in the opening remarks here, why the two names are being used.

First off, I would like to thank you for coming to Fort Frances in order to provide our company the opportunity to present our views and recommendations regarding Bill 171. This proposed bill is of considerable significance to our company since it will provide the framework for how our forest operations will be conducted over the next decade. Given the fact that our company staff has had very little time to review the actual proposed regulations and the various manuals, we will have to limit our comments today to highlighting areas of general support and concern. We will follow up with a written clause-by-clause review and the associated recommendations, and once you're done all your different hearings, we'll have it to you before you sit down to deliberate.

Boise Cascade Canada Ltd is a wholly owned subsidiary of Boise Cascade Corp, an integrated paper and forest products company headquartered in Boise, Idaho, USA. The Canadian operations include pulp and paper mills in Fort Frances and Kenora, Ontario.

The company's Fort Frances operations produce bleached kraft pulp and uncoated groundwood specialty papers. The grades of paper manufactured at Fort Frances are primarily used in four-colour newspaper advertising inserts, magazines and books. Most of this paper is shipped to customers in the United States, mainly in the New York and Chicago areas. The company's Kenora operations produce standard newsprint and some uncoated groundwood specialty papers. The vast majority of this paper is exported to the United States, primarily to newspaper publishers in the midwest.

Boise Cascade Ltd is the single largest employer in both Fort Frances and Kenora and a significant contributor to the regional economy. More than 1,500 people are employed in the company's Fort Frances and Kenora operations. The company pays nearly \$100 million in wages, salaries and benefits on an annual basis. In

addition, more than \$6 million is paid per year in municipal taxes.

The Fort Frances and Kenora mill operations require approximately 900,000 cords of pulpwood and chips per year. The timber base for both mills includes more than one million hectares of productive forest land in north-western Ontario, where the company's woodlands activities are conducted under forest management agreements, or FMAs, with the province of Ontario. The company has two FMAs in the Fort Frances district which are known as the Manitou and Seine River forests, and two FMAs in the Kenora district which are called the Pakwash and Patricia forests. Additional wood supplies for the Fort Frances and Kenora mills are acquired from crown management units, private sources in the area and from sources outside the province.

The reason for the different uses of the names is that we're currently having a company restructuring. Early this year, Boise Cascade Corp announced its plans to restructure its newsprint and uncoated groundwood assets into an independently managed company. This restructuring involves the Fort Frances, Kenora and West Tacoma, Washington, mills. The name for the new company will be Rainy River Forest Products Inc and the corporate headquarters will be in Toronto.

This restructuring, which is expected to be complete this fall, will allow Rainy River Forest Products to focus solely on the newsprint and groundwood businesses, while Boise Cascade Corp focuses on its other businesses, which are white paper, linerboard, containers, wood products and office products.

Rainy River Forest Products intends to become a public company by selling common shares and debt securities to Canadian, European and select US investors. The sale of these securities, which is expected to be completed this fall, will officially launch Rainy River Forest Products as an independent company.

Following completion of the sale of these securities, Boise Cascade Corp is expected to hold slightly less than 50% of Rainy River's voting securities but will hold more than 50% of its equity.

Enough of all that. I'll move on now to specific items on Bill 171.

General areas of support: The first item is the need for change. Our company supports the proposal to update the existing Crown Timber Act. Bill 171 will provide enabling legislation that will allow the Minister of Natural Resources and the forest industry to move ahead on a number of key forest management issues. It is important to have the legislation in place to provide for a continuous improvement in forest management operations. However, the proposed timetable for passing this bill is insufficient to provide for proper consultation in order to develop a solid base to institute change.

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Good forest management must be accomplished in the field by trained and competent professionals who are in constant consultation with other stakeholders and the public. It is our view that the proposed bill could be significantly improved for citizens of Ontario, stake-

holders, the government and the forest industry by simply allowing more time and dialogue to occur between and within the various parties. We only have a few opportunities to revise legislation. Let's take this opportunity to do the best possible job. Let's work together to develop the appropriate bill, regulations and manuals that will allow for continuous improvement in the future.

Bill 171 proposes the establishment of trust funds to encourage forest sustainability. Our company endorses the proposed legislation to establish a forest renewal trust and a forestry futures trust. Dedicated and predictable funding for forest renewal is something that has been needed for a long time. These trusts will ensure that the forests of Ontario are renewed and maintained for future generations. Our company looks forward to the day that we will be operating under the trust fund arrangements proposed in the bill. We believe this will be one of the most progressive steps taken by the Ontario government since the development of the existing forest management agreements.

Bill 171 promotes the establishment of advisory committees. We support the establishment of local citizens' advisory committees to assist in the management of Ontario's forests. Our company is currently working with local citizens' committees both in Fort Frances and Kenora, and has found that this is an excellent way to improve communications between various stakeholders, interest groups and the public. In fact, we recommend that this section be expanded to include the advisory structure prescribed by the Environmental Assessment Board for Timber Management on Crown Lands in Ontario in their term and condition 4(a) and (b). In our view, the board's ruling provides an organized structure for public consultation and the development of appropriate policies, manuals and guidelines. We strongly believe that this advisory structure will provide for substantial improvements in forest management in the province.

Bill 171 provides for the direction of movement from timber management to a forest management concept. Our company supports the concept or principle of moving from timber management to forest management. However, this cannot be accomplished by simply changing the word "timber" to "forest." As highlighted in the Reasons for Decision and Decision of the Environmental Assessment Board for Timber Management on Crown Lands in Ontario, this transition from timber management to forest management is not a simple task. I quote from the EA decision on page 68:

"We believe that these concepts hold the promise of improving the approved method of carrying out this undertaking in the future. We find, however, that no one was able to demonstrate to our satisfaction how a truly 'integrated forest resource management' approach might work. The proposed Conditions of Approval from FFT, Forest For Tomorrow, and the coalition, which would achieve this end, appear to us to be unworkable at the present time. Also, the preponderance of expert opinion we heard leads us to conclude that such an approach needs investigation and development before it is implemented. Necessary efforts toward quantification of various resource values, coordinations of their manage-

ment and the means of optimization are under way."

We agree with the Environmental Assessment Board that we need to move towards forest management. This will take considerable time, money and dialogue between the various parties and the public in order to accomplish this task in a constructive and rational manner. We recommend that the proposed legislation address the elements of time, money and consultation in order to accomplish the movement from timber to forest management.

Now let me move on to some of the major areas of concern we have regarding Bill 171. One of the first major areas that we have is in part I, "General," and in subsection 2(1) in "Definitions," where you refer to a "forest resource processing facility." Apparently, it came up in some of your other deliberations. In the definition, it "means a sawmill, pulp mill or any other facility, whether fixed or mobile, where trees or other forest resources prescribed by the regulations are initially processed."

Our concern with this is that extending the definition of "processing facility" to "mobile facility" will create some unreasonable impacts. It will reduce companies' flexibility in managing their operations and increase the paperwork necessary to do so. A specific suggestion around that would be to drop the words "whether fixed or mobile" from the definition.

Another concern we had concerns forest management planning and information. Subsection 7(1) states, "The minister shall ensure that a forest management plan is prepared for every management unit." Under our FMAs, we currently prepare a timber management plan every five years. We do not know what a forest management plan would constitute in the future and have no idea of the time frame that is envisioned. This transition from timber management to forest management must be addressed in the Forest Management Planning Manual.

On the information side of things, subsection 17(1) states, "The minister may require the holder of a forest resource licence to conduct inventories, surveys, tests or studies in accordance with the Forest Information Manual." Our concern is that at the present time our company collects information and updates the timber resource inventory base. The Ministry of Natural Resources collects information and updates the non-timber inventory base. The proposed legislation would enable the minister to direct the company to conduct any type of inventory he or she deems appropriate. This could essentially transfer all costs and responsibilities regarding the non-timber inventories of the forest to the company.

We strongly suggest that this additional cost should not be transferred to the forest industry and that the cost for non-timber inventories, surveys, tests or studies be borne by the respective user or by the government of Ontario. Our company is not in a position to absorb any additional costs for the province or other user groups.

Wood supply security, subsection 31(1): "The minister may amend a forest resource licence in accordance with the regulations." Our concern is that this section appears to give the minister the right to amend a resource licence without consultation with the licensee or without con-

sidering the licensee's business requirements.

We believe that section 28 of the existing Crown Timber Act is more understanding of the licensee's needs. Subsection 28(1) states:

"Notwithstanding anything in any general or special act or in any regulation or in any licence or in any management plan or operating plan, the Lieutenant Governor in Council,

"(a) having regard to reasonable business requirements of the licensee, may cancel or vary any licence in respect of one or more parts of a licensed area or in respect of any type, size or species of timber designated by him; and

"(b) with the consent of the licensee, may cancel or vary any term or condition of a licence."

We recommend that section 28 of the Crown Timber Act replace section 31 of Bill 171 to ensure that the rights of the licensee are duly considered prior to any amendment.

The sections in Bill 171 speaking to remedies and enforcement: I won't cite all the different sections, but it's between sections 52 and 61.

First, we believe that the provisions of section 52 of the bill concerning the minister's power to issue preventive orders vests too much discretion in the minister. The power created by those provisions should be exercisable only when there is in fact impairment of sustainability.

Section 53, like section 52, vests too much discretion in the minister. In addition, the section should be revised so as to not require a licensee to incur the cost of remedial work where the damage to resources was caused by forest operations specifically required or authorized by a ministry-approved forest plan, annual work plan or other form of permit or licence.

Rainy River Forest Products believes that the vast bulk of day-to-day disputes between a licensee and the ministry concerning compliance with the new act should be resolved by negotiation between the parties, or absent a negotiated solution, pursuant to the civil penalty provisions set forth in section 55. We expect, as we hope and believe the ministry does, that the draconian provisions of section 61 would be reserved for flagrant and serious violations.

The relationship between the ministry and its licensees is at its core a commercial one and should not be regulated on a routine basis by resort to the criminal courts. The language of Bill 171 fails to recognize this distinction in the provisions of section 55, civil penalties, and section 61, criminal penalties. They are equally applicable to the most minor and most serious infractions. Section 61 should be revised so as to limit its availability to serious, flagrant infractions.

We recognize the need for enforcement and punitive measures to be included in the legislation. However, we strongly believe that the government should recognize the positive efforts made by companies to improve their forest management operations. We recommend that a section be added to Bill 171 that provides for a system of awards and/or recognition.

This concludes my remarks to you today.

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Mr Brown: Thank you, Mr Jewiss. The committee, especially myself, enjoyed the excursion last night and we all learned a little bit about what goes on in the forests of this particular area and a little bit about hunting in other parts of the province.

My question, and I've been trying to wrap my head around this, and no one has really talked about it yet, concerns FMAs. Under the present system, under the terms of your individual contracts on each FMA, you will be required, I suspect, to do certain forest regen practices. Am I correct in that? It's a condition of the licence?

Mr Jewiss: Yes.

Mr Brown: Under the trust fund arrangement, in your understanding, are you to be reimbursed from the trust fund for the activities that you are presently carrying out?

Mr Jewiss: If you look at the current system of FMAs when they came into being, prior to their existence, the crown undertook and did all the silviculture work on all the areas in the province, all the crown land in the province. When forest management agreements came into place, what happened is that they transferred the responsibility of renewal to industry, or to companies, on their FMAs, but they also made an allocation of funds available, called silviculture reimbursements, for them to undertake that work on behalf of the crown. So we were reimbursed for any work that we did on our FMAs by the crown. With the trust fund agreements, we will be taking and invoicing the trust company. We'll be paying the stumpage, so much will go to the general revenue, so much will go to the trust company. We will invoice the trust company for the work that we undertake on our FMAs. So we will be paid for the silviculture work that we do on our FMAs out of the trust fund.

Mr Brown: So the real guarantee here is that you are able to predict the funding over a period of time when you have the wild variations that have occurred in the past.

Mr Jewiss: Well, one of the problems with the old system was in the allocation back from the government. When the Ministry of Natural Resources had to go and ask for money from the treasury board, it was never adequate, in recent history. At the beginning of the process it was, but over time it's eroded as other demands on the government have taken place. Going to a trust agreement, we will be able to predict exactly what's in our trust agreement, because it's a contribution by so much per cubic metre of your harvest. So you'll know exactly what's in there and what you withdraw. It'll be a better system.

Mr Brown: I agree. I'm just trying to determine the economics a little bit. Has the company had a look at what it is going to pay in increased stumpage fees, towards the trust, that is, and had a look at what pot of money will be available to you there to do your silviculture and what kind of an increase that is over, say, the mean of your expenditures on silviculture in the last number of years? What I'm trying to find out is, are we going to get more silviculture or less?

Mr Jewiss: Get more silviculture or less: We've done

some estimating and forecasts, but the regulation that actually deals with how much stumpage we're going to pay has yet to be put out. I know the brief documents on regulations covered the contribution to the trust fund, but they didn't get into the base rate contribution and what that's going to be. The regulations are still being written, in my understanding, of what that's going to be.

But on a rough basis, we've done some, I guess you could call it guesswork, on where the cost is going to be, what our stumpage is going to change to or from, and we feel that we can continue to renew our total harvest area with the moneys that we will be contributing to the trust fund. I don't think we'll see a substantial increase in our contribution, our costs. I'm not sure which one you were getting at.

Mr Brown: Both. I'm trying to net it out is really what I'm trying to do.

Mr Jewiss: When I spoke to this that we think it's positive, we know what's in the pot and you can withdraw from the pot, ie, the trust company. We know it's in the pot, so we can withdraw from the pot, and you know what you're contributing to the pot, so you can sort of design your work and work plan accordingly.

Mr Brown: The other part of stumpage you haven't addressed, though, is the residual value part of stumpage, which is dependent on the market value of the particular product, as I understand it. That is a little problematic to me in terms of raising your costs significantly, and that money still goes to the good old consolidated revenue fund, never probably to be seen by the forests of Ontario again. Does your company have a view on the residual value, and what might that be?

Mr Jewiss: Yes, we didn't like it. Nobody likes to be taxed on profits, and that would be the best assessment we can have. It's—

Mr Bisson: A philosophical belief.

Mr Jewiss: Yes, a philosophical belief. It's a difficult—

Mr Brown: Well, it really isn't necessarily a tax on profits.

Mr Jewiss: The more money you make, the more money they want.

Mr Brown: It's the more margin you have, but it may not represent an actual profit to the company, because it's not a corporate tax, it's a tax on a commodity that you're purchasing from the crown.

Mr Hodgson: Paul, I'd like to thank you for last night and this tour and the hospitality that you've afforded us. I enjoyed myself. I know Gary enjoyed the tour and everything else. I've enjoyed your presentation this morning. You've gone over perhaps some interesting things in your support of the bill. You support the general broad principles of it.

Given the fact that the trust funds were created not by Bill 171 but by Bill 160 earlier this year, outside of the name change on the act, what specifically—because, as you mentioned, we need more time to flesh a lot of these things out to see the benefit to the forest as an ecosystem. Given the fact that the way I read subsection 17(1), the forest resource licence holder is responsible for the

inventories, the surveys, the tests and the studies in accordance with the Forest Information Manual, that will place the onus on information gathering on to the licence holder. What benefit does this bill give the forest industry that it hasn't been able to achieve under the crown timber management and the trust funds that were created under Bill 160?

Mr Jewiss: You rolled all that into one question. You talked about 17(1), and that was one of our concerns with the bill that you're looking at, being charged with the responsibility for the costs and so on to collect all that information and then to be told to hand it over. That's a big concern. When you said, if we had more time to look at the bill, that would be one of the sections where we would think that perhaps some more time could be spent on designing the Forest Information Manual that goes along with the bill to come up with some kind of equal sharing of the responsibility so the cost doesn't fall on the person most reasonably able to pay.

Now, that's half of your question. The other half was that the amended Crown Timber Act, which I guess you're calling Bill 160, which allowed for the trust funds—

Mr Hodgson: The point is that we went on a tour last night and we saw that you've been very progressive in your forest practices. All of this was enabled under the old Crown Timber Act. What benefits does this bill specifically give that wasn't achievable under the old act?

Mr Jewiss: On some of the areas that you saw last night, Chris—it was a very short tour, due to weather and time constraints. But we could have taken you to some areas where we would have preferred to have planting stock to put on to those sites but we did an alternative treatment, which is acceptable under the rules of our FMA, say, aerial seeding, for example, due to a lack of funds available from the government to buy the stock.

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Mr Hodgson: Right, but the trust funds are created under Bill 160, not under this bill.

Mr Jewiss: Well, it's almost getting into semantics about who created which bill. I'm not an expert on the bills, but reading the amended Crown Timber Act, it creates the trust funds, but this bill also speaks to the trust funds as well. But under the new trust fund system, we would have the option to buy the stock against our trust fund balance and be able to go and plant those areas and do the treatment that we wanted. Under the old system, under the old Crown Timber Act, without the amendment of Bill 160 on it, we didn't have that opportunity.

Mr Hodgson: Are there any other advantages to this act, other than the trust funds and the stability of the regeneration?

Mr Jewiss: The forestry futures fund is another one.

Mr Hodgson: That again was—

Mr Jewiss: It was a part of Bill 160 and it's repeated in this Bill 171.

Mr Hodgson: Do you see any advantages that don't reflect current practice here that are going to take us to better management of the forests specifically? This is

called the forest sustainability act and it's meant to assure the world markets that we're going to have sustainable forest here for ever. It's meant to assure the people of Ontario that the ecosystems are going to be sustainable for ever. It's also meant to assure the people who derive their living from the forest and the timber industry that they're going to have sustainable jobs. Have you seen anything specific in here that changes the current practice that you're presently employing, all done under the old Crown Timber Act?

Mr Jewiss: The one that I spoke to early on was advisory committees and that this act gives more weight to that. When you talk about making sure that we still have the opportunity to exist up here in northern Ontario, like as Fort Frances as a community, that decisions made by a local committee and dealing with a local resource, even though it does belong to the people of the province, it's much more important to us in this locale than it is to somebody outside of Toronto and we would like to have an input into that decision. This bill does give us that right to have this kind of opportunity.

Mr Hodgson: Except it doesn't define it in the regulations yet.

Mr Jewiss: EA defines it, and that's what we're recommending that you incorporate—

Mr Hodgson: We adopt that right now before we pass it.

Mr Jewiss: Put it into the bill, before you pass the bill. I think that's what we're trying to do here.

Mr Hodgson: Okay. I just wondered if there were any other areas you saw that presently defined that help.

Mr Jewiss: No. I wouldn't want to—

Mr Hodgson: I look forward to reading your clause-by-clause when you have more time to go through it.

The Vice-Chair: We actually have three questioners from the government side: Mr Wood, Mr Bisson and Mr Mammoliti.

Mr Wood: Thank you for the assistance and the tour last night. It was very rewarding, and thank you for the presentation today.

As you're aware, the minister was here this morning. Mr Hampton was here this morning and talked about some of the things.

One of the issues you raise here is 31(2), where the minister can amend licenses. I think, just to clarify that, that's the Lieutenant Governor in Council can amend licenses after allowing for representations from the parties for amendments.

I listened to the areas that you're supporting, the trust funds, the committees involved, and then I just want to address some of your concerns.

You're saying your processing facility. When we were in Thunder Bay, we heard a number of presentations on mobile chippers, and I just want to throw something out to you there. What size of wood do you feel would be fair out there chipping? We had comments from Thunder Bay saying that they can and do chip up to 23-inch logs in the portable chippers because they need it to get the best type of fibre for their craft mills, the brightness and

one thing and another, and it's essential that they be allowed to continue doing that. I just wondered if you had a comment on that.

Mr Jewiss: That's a double-edged sword when you ask that question, Len, because, first off, you're talking to sawmillers, who want to run every stick of wood through a sawmill first and produce chips to an end user. If you take a facility like ours here in Fort Frances that can't or doesn't exist on a steady diet of chips, we run a groundwood mill which needs roundwood, and it has to be in spruce, and a craft mill that runs on a chip diet with steady chips, which is all jack pine—you asked me specifically the size of wood that should run through a chipper.

Anything that will make a board should go through a sawmill first and then produce chips and then be sold to somebody who can use them. So you're down to a five-inch piece.

In our instance, though, you could argue the point that on value added, how much is a 10-inch spruce log worth to us to take in to our groundwood mill prior without going through a sawmill, and how much it contributes to the economy of running our groundwood mill and then to the paper that it produces, first as the two-by-four or two two-by-fours that that spruce log produces at a sawmill. I think if you did the economics of it, it'd probably be more valuable sending it in a roundwood form to a groundwood mill such as we have.

Mr Wood: On the transition period, there is a time frame spelled out in the transition period going from the timber act to the Crown Forest Sustainability Act. In one particular area we're talking about a two-year transition and then we're talking about a five-year one when the FMAs can be converted over to sustainability agreements. I know there are negotiations that are going on right now. I believe your company's involved with negotiations with Bob Carman, who is the government representative negotiating that. I just want to know if you had a comment to make on the transition, because you raised that during your brief.

Mr Jewiss: Because the act, and as Chris pointed out, the amendment, Bill 160, which amended the Crown Timber Act, allows for the trust fund setup and the forestry futures fund to be set up, the reason we would like to get on with, as you called it, or alluded to, the Carman exercise and get these trust agreements set up and being able to access them is that right now the money is still going into general revenue and has to be scooped back to be able to be made available to the forest industry.

Mr Wood: So the sooner the better.

Mr Jewiss: The sooner we can do that, the better off we are. That's why we're a proponent or in favour of this bill. It all helps get that process going.

Mr Bisson: How much time left, Chair, for our caucus?

The Vice-Chair: Well, if you don't stretch the patience of the Chairman, you can go ahead. We do have a bit of extra time.

Mr Bisson: Okay. I just want to make sure my

counterpart—let me just come right to the question in regard to section 61 and the more severe, offensive-type fines. As you know, at first there is the power of the ministry to be able to try to get the end user to do what they need to do to remedy the problem in the bush, then you go to a lesser fine which is within the powers of the ministry, then you go to an offence. I guess what I wonder is, where do you draw the line, in your mind, of what would become a serious offence and you would go to section 61 of the bill?

Mr Jewiss: Like when I said we have some specific words, some of the things in there where it says “in the opinion of the minister,” if you knowingly and willingly were responsible for an infraction, to me that should start directing you to the severity of the penalty.

Mr Bisson: I guess in looking at section 61 it sort of speaks to that one, but I think we can all agree that nobody would want to see you go from, bang—first of all, we’d have to work under this premise: The premise is that most, and I would say the vast majority, of forest operators are very responsible and take their stewardship of the forest I think in a most responsible way and want to do the right thing. My thinking in dealing with the forest companies is that 99.9% of them would never end up in that situation because they would go back and do what needs to be done. But in order to give industry a little bit more comfort, how would you set that up? Like, where do you make the progression? It’s a tough question, but it needs to be answered.

Mr Jewiss: When you write any act or you do any kind of negotiations that are as broad as this province is, you’re always writing it for the worst case versus the best case. You say 99.9% of all forest operations tend to try and should never even use this compliance inspection.

Mr Bisson: That’s right.

Mr Jewiss: But as a government or anybody else, if we were negotiating with anybody else, you write it up for the 0.1% that—

Mr Bisson: Well—

Mr Jewiss: In essence, it ends up how it’s used, and how would you determine when you applied this—I think what you’re getting at is, how would you apply this in deciding? It still would come down to me as being knowingly and willing do something wrong. That’s just a flagrant disregard for the laws of the land, so to speak.

1350

Mr Bisson: Do I still have a bit of time? The other thing is that in regard to information-gathering, which you talked about, a lot of that information-gathering is for your own benefit in the sense that you have to gather that information in order to do your job right. I’ve heard a number of presenters from industry come forward and say they don’t like the section that states that if the minister needs that information, he can ask you to provide it. Are you really worried that all of a sudden you’ll get all kinds of whimsical types of suggestions from the ministry to go out and do all kinds of things that you don’t need to be doing?

Mr Jewiss: The best intent of most acts when they’re written may have been not to do that, but once, as we’ve

alluded to earlier on, this gets passed, the next government or whichever government at the time that looks at that section can interpret it their way and then you can have the problems that we see here, being asked to provide unreasonable information that doesn’t help us manage the forest, which is exactly what you said. To do our job, we don’t need to collect some of the information, ie boat cache information.

Mr Bisson: I guess what I’m getting at is that I don’t think you suggest that the minister shouldn’t have the ability to get that information if needed; I guess what you need is something to build a comfort level, that it’s not done unreasonably.

Mr Jewiss: Right.

Mr Bisson: If that could be clarified, would you support that?

Mr Jewiss: Yes.

Mr Mammoliti: Paul, first of all let me thank you for your time last night as well. I was one of the members who took the time to go out. More importantly, I want to thank you for putting up with me on the bus. My being from Metro, it’s been quite the education over the last week and a half.

The Vice-Chair: He’s got a lot of wolves in his riding.

Mr Mammoliti: Mr Chair, I’m sorry?

The Vice-Chair: You’ve got lots of wolves in your riding.

Mr Mammoliti: Lots of wolves, that’s for sure. They’re called Liberals, by the way.

Mr Brown: It’s a regular plague, isn’t it?

Mr Mammoliti: One area that I’ve been interested in, Paul, is the whole area of the local citizens’ committee. I’ve been listening intently to some of the criticism as well as the positive on the issue over the last week and a half. I’ll be quite honest with you: I don’t understand the criticism towards this in reference to having somebody on it who doesn’t know anything about trees or forests. I mean, if government thought that way, they wouldn’t have sent me up here.

Interjections.

Mr Mammoliti: It’s absolutely true. I mean, and I’ll be perfectly honest with you, I really didn’t know anything about the bill, I didn’t know anything about the problems that exist in the north. This has been one hell of a learning experience for me. Those who come in front of the committee and say that these citizens’ committees shouldn’t have anybody who doesn’t know anything about it on them I think are wrong. I think the people who might sit on a committee like that might actually bring a perspective that individuals might listen to and might learn as well. I think that that’s important as well.

I want to know your opinion on it. I’ve given you my opinion. I’d like to know your opinion on it and, if there’s some criticism, I’d like to hear it as well. But if you agree with me, I’d like to know the positive. What can that bring out in terms of the community?

Mr Jewiss: A little bit of history, George: Right now in Atikokan, just down the road—we call it a little ways

here, but it's a long ways maybe related to Toronto—about 80 miles to the Atikokan district office of the MNR—I'm going to try to get this all into context here, but the environmental assessment hearings came out and ruled on what they think a local citizens' committee should be. Prior to that ruling, Atikokan MNR embarked on creating what they called a resource management committee. They did exactly what you suggested. They went into the community and picked—and when I say picked, they did solicit for some members at large—people who didn't have a forestry background per se.

They had an interest in the community; they had an interest in northwestern Ontario. They selected these people and then they got two members at large, so to speak, from advertisements, just generally interested people, and set up this group. Now, there are no stakeholders there. What you have is a group of people who have been getting educated about forestry. Rainy River Forest Products did a presentation to this RMAC, resource management advisory committee. They've had presentations from bait fishermen, from trappers, from tourist operators as part of their educational process.

That committee still exists, but with the EA ruling coming along and saying that now you must involve stakeholders, I like that idea of the committee, which agrees exactly with what you said, George. When you put stakeholders in the room, sitting around, that pits—and I'll use myself as an example—me against those as a resource user, and that shouldn't be the forum. A decision that's made by the group of individuals should be based on what's good for the community, what's good for the area, what's good for the resource.

Mr Mammoliti: You don't see it as a threat, then?

Mr Jewiss: See what as a threat?

Mr Mammoliti: Having individuals who might not know anything about—

Mr Jewiss: I've been sort of very pleased with this RMAC, the way that they've been learning and gathering information and understanding all the nuances of what it takes for management of the resource and how it's working. It's a positive move and I don't see it as a problem in getting people. I would have a problem, for example, George, if they put you on it.

Mr Mammoliti: You'd have a problem with me?

Mr Jewiss: Just where your locale is, because of your vested interest. If you moved up here, that would be a little different, but by example, if you were brought up from Toronto to sit on this committee, it wouldn't make sense. I don't think you'd want to do it and what would you care when you listened to stuff? That's why it has to be something that people from the community who have an interest in the community surviving—

Mr Mammoliti: I'm glad you elaborated on that because I would have taken it personally.

Mr Jewiss: I was worried about that.

The Vice-Chair: Thank you very much for your presentation. We're glad we had an opportunity to give you a little bit more time, to give the committee a little bit more time to ask questions, given the significance of your operation for northern Ontario. We certainly hope

you're going to be in this area for a long time, you and your company.

As you've noticed, committee members, I was quite a bit flexible in terms of the time lines. The reason is that the next presenter, the Ontario fish association will send us a written submission. However, they are not in a position to make an oral presentation at this time. The Dryden and District Labour Council has cancelled and, of course, Rainy River Forest Products we already heard this morning, which leads us to 3 o'clock. We have not heard from Dan Williamson yet, so I think we will adjourn until 3 o'clock and see whether Mr Dan Williamson is here. The clerk is contacting his office and trying to call the remaining presenters, whether in fact they will be appearing or not.

1400

There's one business item that perhaps we could discuss at this point. The subcommittee apparently wants to put forward a motion, if somebody from the subcommittee would like to read the motion.

Mr Brown: I would be pleased to. I move:

That the committee extend the presentation of the Ontario Forest Industries Association to one hour;

That the Ontario Lumber Manufacturers' Association be rescheduled;

That the clerk of the committee schedule for presentation the Ad-Hoc Committee of the Wildlife Working Group and Kenneth W. Hearnden, for the week of August 29, in Toronto;

That ministry staff be present on Monday, September 12, 1994, at 2 o'clock, to respond to questions on Bill 171, before the clause-by-clause review of the bill.

The Chair: Discussion?

Interjection: I'll second it.

The Chair: Apparently we don't need a seconder. Did you want to speak to the motion?

Mr Brown: Just that the committee has been contacted by the Ontario Forest Industries Association, which has said that they have an extensive presentation they would like to give to the committee and believe that they, being an umbrella group in the industry, maybe could be allocated a little bit more time. I, of course, agree with that.

The second part of the motion relates to the Ontario Lumber Manufacturers' Association, which apparently, I'm informed, has been talking to the Ontario Forest Industries Association and is quite happy with this arrangement of being rescheduled to permit this. The other presenters mentioned in point 3 of the motion have indicated they want to be heard. I'm sure the committee wants to hear from them, so that's why they're included. The committee of course would like to hear from ministry staff, and that's the reason for the fourth part.

Mr Mammoliti: While I've had a chance to even look at the motion myself, I'm wondering whether or not you would have any problem—and I'm sorry, Mr Chair; I'll go through the Chair—dealing with every one of these issues individually. I have some concerns with some, and others I might agree on. I prefer to deal with

them individually as opposed to dealing with them in one block.

The Vice-Chair: If you're requesting that, that would have to be done anyway. That does not require a motion. Is that what you're requesting?

Mr Mammoliti: I'm requesting that the committee deal with it individually, yes.

The Vice-Chair: Do you want the debate also individually or can we debate them all at once?

Mr Mammoliti: I think we should do it all at once, Mr Chair.

The Vice-Chair: Any further questions then or comments with regard to the motion? No? So we're ready to vote then? Number 1, that the committee extend the presentation of the Ontario Forest Industries Association to one hour. All in favour? Carried.

Interjections: No.

The Vice-Chair: All those in favour, raise your hand. I didn't expect this. Opposed?

Mr Brown: I think we want a recorded vote.

Mr Mammoliti: Certainly.

Interjections.

The Vice-Chair: Okay, recorded vote. All those in favour?

Ayes

Brown, Hodgson, Miclash.

Nays

Bisson, Dadamo, MacKinnon, Mammoliti, Martin, Wood.

Clerk of the Committee: It's six to three, defeated.

The Vice-Chair: The second motion is that the Ontario Lumber Manufacturers' Association be re-scheduled. All those in favour?

Mr Brown: I think it's redundant; I don't think it's necessary.

Clerk of the Committee: You still have to vote on it if it's in the motion.

The Vice-Chair: All those in favour?

Clerk of the Committee: Is this a recorded vote?

Mr Brown: Just for clarification of what just happened, they can now remain in the time slot they were. Does that not remain the same?

The Vice-Chair: That was the reason why they had them asked separately.

Clerk of the Committee: No, this is redundant, the vote, really, but since it is on the motion—if you agree it's redundant—

The Vice-Chair: Is it redundant?

Mr Brown: Yes.

The Vice-Chair: Number 3, that the Clerk of the Committee schedule for presentation the Ad-Hoc Committee of the Wildlife Working Group and Kenneth W. Hearnden for the week of August 29 in Toronto. All those in favour? Opposed? Seeing none, the motion is carried.

Number 4, that ministry staff be present on Monday

September 12 at 2 o'clock to respond to questions on Bill 171 before the clause-by-clause review of the bill. All those in favour?

Mr Wood: If I may, Mr Chair?

The Vice-Chair: I'm sorry, but the debate is finished. All those in favour?

Mr Wood: We need some clarification on the time.

The Vice-Chair: We're in the process of voting. I asked whether there was further debate before, so the motion is quite clear. The motion is the way I presented it. All those in favour?

Interjections.

The Vice-Chair: That's what the motion says. The motion says, for those who didn't fully hear it, that ministry staff be present on Monday, September 12, 1994 at 2 pm to respond to questions on Bill 171 before the clause-by-clause review of the bill. That's the motion.

Interjections.

The Vice-Chair: I'm sorry, committee members. We had the discussion. I asked whether there were further clarifications or questions and then I called for the vote. There's no further clarification at this point.

Mr Wood: Mr Chair, can I make an amendment to the motion—

The Vice-Chair: No, I'm sorry.

Mr Wood: —that the time be from 2 to 3 pm?

The Vice-Chair: No, I'm sorry, Mr Wood. That amendment would have been in order before I called for the vote. All those in favour? Do you want a recorded vote?

Interjection: No.

The Vice-Chair: Three in favour. Those opposed? Six opposed. The motion is lost.

Mr Bisson: Can I propose a motion, Mr Chair?

The Vice-Chair: You can always propose a motion.

Mr Bisson: I'd like to propose a motion that the same motion that we just voted on stipulate from 3 to 4.

Interjection: From 2 to 3.

Mr Bisson: From 2 to 3.

The Vice-Chair: You are proposing that ministry staff be present on Monday, September 12, 1994, from 2 pm to 3 pm to respond to questions on Bill 171 before the clause-by-clause review of the bill. Is there debate?

Mr Hodgson: Why limit it to one hour? We spent two weeks on the road at great expense to taxpayers. What's the big problem if we spend an extra half-hour or two hours?

Mr Wood: I believe that one hour will be sufficient for the people who are going to make the presentation and make the comments, so that it doesn't go unlimited and we never get into clause-by-clause discussion, which we intend to do. We feel that one hour is the necessary amount of time, and it might not even take that amount of time, to clarify some of the questions that have been brought up. This is the reason why: We want to get on with doing the business of clause-by-clause as quickly as possible.

Mr Hodgson: If the government party is worried about a filibuster before the House returns on October 31, I think their concerns are misguided. All we want, by meeting with the ministry staff, is just clarification on a lot of the questions that have been asked of us as a committee by people who have appeared before us. They've taken time out of their schedules; people have driven a couple of hours to be here. I think it's just out of decency to those people that we take as much time as necessary to have factual information given to us by the ministry staff before we go into clause-by-clause. We've been on the road now two weeks. It hasn't been easy for the people to drive to present to us. If we can't get answers to their questions before we make decisions on it, what was the purpose of it?

Mr Brown: I share Mr Hodgson's view. I don't have any idea how long the process might take with the ministry, but it may be helpful to have many of these issues clarified before we commence clause-by-clause. It may take 15 minutes and then we can start clause-by-clause, it may take two hours, but I don't see that it expedites the clause-by-clause review of the bill for the committee not to have the information that the committee wants. If you want to say it's going to take one hour, it doesn't really bother me; I just can't understand why the parliamentary assistant is taking that view. I think the committee has cooperated in a very reasonable manner. Up to the last vote we took, on the Ontario Forest Industries Association's presentation, I thought things were going pretty well.

Mr Mammoliti: Just in terms of clarification, it's my understanding, and I've had a chance to sit on committee for about four years now, that while we'll have an hour to ask direct questions to the ministry, during clause-by-clause and as clauses do come up you will still have an opportunity to ask the ministry or ministry officials or the parliamentary assistant questions in reference to that particular clause. Having said that, I would again suggest that we deal with the motion at hand. An hour is sufficient, remembering that you do have time and that perhaps as you go through your notes you might come up with a question that pertains to a certain clause. Nothing is stopping you from asking the ministry those pertinent questions. That's my suggestion to you as opposition. I don't want to preach to you, but if you want me to, I will.

1410

Mr Wood: I'm not going to repeat what Mr Mammoliti has just said, but that is a commitment that I'm making as well, that as we go through the clause-by-clause there will be ministry people available to answer any questions to me, and turn myself to the committee as we go through clause-by-clause. We're looking for a spirit of cooperation is my concern, and we want this spirit of cooperation to continue through, and finally third reading.

The Vice-Chair: Any further debate? Ready to vote?

I'll read it again: "That ministry staff be present on Monday, September 12, 1994, from 2 pm to 3 pm, to respond to questions on Bill 171 before the clause-by-clause reading of the bill."

All those in favour?

Clerk of the Committee: Six.

The Vice-Chair: Six. All those opposed?

Mr Mammoliti: A recorded vote, Mr Chair?

Clerk of the Committee: Four.

The Vice-Chair: I think they have to vote, do they?

Clerk of the Committee: If you ask them, yes, they have to vote.

The Vice-Chair: You have to vote. All those opposed?

Mr Mammoliti: A recorded vote, Mr Chair?

The Vice-Chair: Well, it's too late; we're in the process. You want a recorded vote?

Mr Mammoliti: Yes.

The Vice-Chair: All those in favour?

Ayes

Bisson, Dadamo, MacKinnon, Mammoliti, Martin, Wood.

The Vice-Chair: All those opposed?

Nays

Brown, Carr, Hodgson, Miclash.

The Vice-Chair: The motion is carried.

Any further business that we'd like to—Mr Brown?

Mr Brown: I would just ask a technical question. I just wonder, from the Chair, if he is aware when the Hansard might be available for the committee to review.

The Vice-Chair: I'm presently not aware, but perhaps somebody else is.

Mr Brown: I'm not expecting an answer right this moment. I'm just trying to find out.

The Vice-Chair: Okay. We can try to find that out. Certainly the Instant Hansard probably would be available in time for the proceedings, but we'll try to give you a more precise answer to that question.

Any further questions? If not, we will now adjourn until three o'clock.

The committee recessed from 1412 to 1458.

TOWNSHIP OF IGNACE

The Vice-Chair: I understand Mr Dan Williamson has not yet arrived. However, the presenter for 3:30, representing the township of Ignace economic development council, has agreed to give his presentation now.

Mr Andy Tardiff: My name is Andy Tardiff. I'm the reeve of the township of Ignace.

The sustainable future of the township of Ignace depends upon sound crown land planning and resource management. Bill 171 and the corresponding planning manual will have considerable impact on Ignace and most communities in northern Ontario far into the future.

The Ontario Forest Policy Panel report urged all Ontario residents to plan and act in concert for a sustainable future by implementing the comprehensive forest policy framework. The township supports the goals and objectives outlined in the panel's report and supports in principle the legislation, which sets to ensure the long-term health of the forest ecosystems for present and

future generations. The comments contained in this presentation were prepared by the Ignace council and the economic development committee. The comments will be made under the following headings: Bill 171, clarification of definitions and concepts; support for concerns raised by the forest industry; definition of reasonable control on mobile facilities; local citizens' committee; public consultation process for Bill 171 and the role of the Ministry of Natural Resources in updating the five manuals referenced in the act; concluding remarks.

In order for all interested parties to work together to implement this legislation, the following definitions and concepts must be clarified:

What is "sustainability"? The definition needs to be specific enough to permit the objective evaluation of this fundamental value in forest planning and management.

What are the terms "value," "loss" and "damage" in relation to part VII, "Remedies and Enforcement"?

The respective roles of government and industry in forest planning and management must be clarified. It appears that the word "forest" has been substituted for the word "timber" in the act. Who is responsible for managing all the elements of the forest?

Agreements with first nation communities: The act outlines detailed process for agreements with industry. First nation agreement parameters and third-party consultation requirements should be defined in part II, "Management Planning and Information" section.

I hope you'll excuse my French accent on that.

Mr Bisson: Pas de problème.

Mr Tardiff: Support for concerns raised by the forestry industry: The township consulted with stakeholders, including industry, in preparing this presentation. The township supports the following concerns raised by industry.

Tenure security: The tenure component of the act is unclear. Without long-term tenure, financial institutions and investors will view the forest industry as an unattractive investment. Investment is necessary for the sustainability of the industry and jobs.

Calculation of area charges: The legislation proposes to calculate area charges based upon the total area of the licence rather than the wood available for harvest on the licence. Companies should pay taxes on the wood available for harvest.

Definition of reasonable control on mobile facilities:

These comments relate specifically to the draft regulations made under paragraphs 18 to 21 of subsection 67(1) of Bill 171. The inclusion of mobile facilities under this definition goes beyond the need for reasonable control.

The one-year licence for chippers would compromise future investment and ultimately the wellbeing of the community of Ignace. With only one-year tenure, it would be very difficult for companies to keep skilled personnel, and communities like Ignace could constantly be in economic transition.

Control imposed on companies requires ministerial review when there is a volume or product type change during the year. In effect, the companies could be

penalized for trying to be more efficient or to meet new market requirements.

For the above reasons, it is suggested that the whole-tree chipper be removed from schedule 2, the words "whether fixed or mobile" be removed from the definition of a forest resource processing facility, and the word "mobile" be changed to "semimobile" in the definition of "forest resource processing facility."

The township of Ignace supports the use of local citizens' committees for efficient and timely public consultations. Given the authority and responsibilities of the LCC, there should be some minimum standard of procedures set out in the management manual. The individual LCCs could then build on these standards.

The Forest Management Planning Manual section on disbursements and support should confirm the ministry's commitment to provide volunteer training for LCC volunteers. At a time of severe fiscal restraint by business and government, the ministry has often lacked information to evaluate the tradeoffs to be made during the planning process and the resolution of problems, differences and conflicts as early as possible in the planning process. The ministry support for decision-making information should be included in the management manual for LCCs.

Public consultation process for Bill 171 and the role of the Ministry of Natural Resources in updating the five manuals referenced in the act:

The process surrounding the introduction of this legislation and accompanying manuals has given very little time for interested parties to review and comment on material. The draft legislation should not proceed further until all interested groups have the opportunity to fully review and comment on the issues that will shape our environment and economy for many years to come. It is hoped that the Ministry of Natural Resources will take the time and make the necessary consultation to refine the manuals to ensure they reflect the principles of the act and the needs of those involved in forest management and planning.

Under the act, it appears that the Ministry of Natural Resources can unilaterally review and modify the management manuals. In order to evolve the adaptive management model proposed by the forest policy panel, it is suggested that the committee structure mandated by the environmental assessment ruling be used to review and revise the manuals.

I thank you for taking the opportunity to discuss the township of Ignace's concerns about this very important piece of legislation. The decisions and directions outlined in Bill 171 will have a direct impact on the lives of many people for many years to come. Please carefully consider the impacts—environmental, economic and social—that the draft legislation will cause and amend the draft to sustain forests and communities.

Mr Hodgson: This is a good report. You mentioned this comprehensive forest policy framework. Do you see much of that report or the framework in this new legislation, or do you see that it will develop over the years?

Mr Tardiff: I'll tell you the truth: I really haven't

had the time to totally read it. My economic development officer and I went through every point we could as fast as we could because we received the package last Thursday and it was yea thick.

Mr Hodgson: We've heard that complaint right across for all these hearings, that there hasn't been enough time to digest what's happened.

Mr Tardiff: Right. So we went through it quite quickly and tried to digest it as much as we could at this point.

Mr Hodgson: Okay. On the calculation of area charges, I think that would be a worthwhile amendment. It would make sense.

When you want definitions for what are the terms "value," "loss" and "damage" in relation to part VII, do you have any specific ideas on that? I was wondering if you could send them on through the clerk for the committee to see, because that's been brought up, not as specifically as you've done, but it's been referred to as a potential problem with this act. That's on section 1.2, page 2 of your report, at the top. So when we go to clause-by-clause with specific amendments, it'll be required if we're to change that or clear that up.

Just of a general nature, how long have you been reeve and how many people do you represent? I was a reeve before.

Mr Tardiff: Six years and 2,000 people.

Mr Hodgson: Two thousand people. I see. That's good.

Mr Tardiff: But I also sit on the committee of reeves and mayors from northwestern Ontario. Myself and Mayor Salonen were appointed by the committee of reeves and mayors to represent the forest industry and help work with them. That's the reason I'm really here today, is through that.

Mr Carr: Thank you very much for your presentation. Like Chris said, it's very good; it's right to the point.

There have been a lot of concerns by a lot of companies regarding this bill that have come forward. They've given suggestions not unlike you've done, but in speaking with I can think of three of the major companies, big employers in Thunder Bay, Kapuskasing and different parts, they have said that if the changes they have put forward don't get incorporated, we shouldn't pass the bill. I wonder what your feeling is if the bill stays the way it is, and the regulations. You may not have had time to go through them. But if some of these changes aren't incorporated, would you rather stay with the status quo or would you like to see it passed anyway?

1510

Mr Tardiff: I would not like to see it passed as is. I'd like to see it passed with changes in it. We all know that changes have to be done to sustain the forest, but I'm sure that the way it is right now, it would be death to northwestern and northern Ontario.

Mr Carr: We appreciate that. I think the other players said the same thing. It's very powerful hearing it coming from major employers in these areas saying,

"Don't pass it," and somebody not from the area, it's going to be difficult to ignore that.

One of the big concerns of course is that not a lot of people have had a lot of time to look at it, so hopefully as more of the details come out, I suspect there will be some changes put forward by the government, because I can't believe they would pass a bill with the major players in these areas not supporting it. So I suspect there will be some accommodation, and what we will need is your guidance whether the changes that are put forward, whether it's the government or the opposition amendments, are something you can live with. So we not only appreciate your work here, but hopefully as we go through clause-by-clause you'll give us your comments as well on any changes, because what I've been hearing from people like yourself is very powerful. It makes it difficult to support it when people like yourselves and some of the companies I mentioned say, "Don't pass it if there are not the changes there." So good luck and thank you.

Mr Wood: Thank you for coming forward with your presentation. When you talk about coming from a small community, a small town dependent on the forestry, I can relate to that because the area that I'm in, all of the communities around Kapuskasing on both sides are dependent on the forests that are out there and the sustainability of them as far as jobs and creating new jobs and making sure they're regenerated in a proper way.

I'm just wondering, you're saying that you are one of the representatives from the northwestern towns, as reeve?

Mr Tardiff: Yes, reeves and mayors meet together about every three months to discuss and that, and I think Frank is aware of that. Myself and Mayor Bill Salonen of Dryden were appointed.

Mr Wood: I take it from that you have had some input into what has been happening over the last couple of years, on the changes in the forestry that are taking place, the environmental assessment ruling, and the concern is out there.

I just want to touch a little bit on the sustainability. Have you had a discussion among the mayors and reeves on what interpretation you have been able to put on it, whether it should be explained more thoroughly in the manuals and regulations, and where you would like to see that?

Mr Tardiff: Well, the biggest discussion came really when there were cutbacks on reforestation. So many years it took to get to this point and all of a sudden you've got a cutback when things are starting to roll in the right direction. That's where it really all got started. It was hard, and if you're not going to reforest your forest, how can you keep going? Cutting using the whole tree and stuff like that really stretches your forest a lot further than if you leave half of the bush.

Mr Wood: On that, using the whole tree and chipping the tree in the bush, you're saying there should be some changes in the manuals and in the legislation as far as portable chippers are concerned. I just want to get a comment. We've had presentations as to what size trees

should be chipped and where they should be going, whether they should be going to sawmills, because there is a spinoff job effect and a certain amount of revenue generated before they go out. What size of trees? Would it be allowable to see a 25- or 30-inch tree chipped in the bush or should we only be chipping the smaller logs?

Mr Tardiff: Well, in our view, there was a lot of discussion at our meetings that 12 inch and under should be chipped and the rest should be kept for logs.

Mr Wood: Twelve inch and under could be chipped and the rest kept for saw logs.

I know somebody else wants a question here.

Mr Bisson: I'm going to make mine quick. In your report, in the first part, section 1.4, just for clarification because I'm not quite sure I follow what you're getting at, you talk about: "Agreement with first nations communities. The act outlines detailed process for agreement with industry. The first nation agreement parameters and third-party consultation requirement should be defined in part II." I'm wondering what exactly you're getting at.

Mr Tardiff: Whenever most of the logging industries or municipalities or anybody do anything you do have to go through first nations. This is what a lot of people are very concerned with. Regardless if it's on first nation land or not, you still have to deal with first nations and that concerns a lot of people.

Mr Bisson: So it's not the promotion allowing the participation of first nations.

Mr Tardiff: No.

Mr Bisson: It's a concern of having first nations involved.

Mr Tardiff: Having all the say-so, in other words.

Mr Tony Martin (Sault Ste Marie): This is my first day on the committee and I just wanted to say that it's really nice to see a reeve of a community come forward. I believe there have been other mayors and Reeves. It's, I think, a recognition of the fact that the sustainability of our forests—it's not just the matter of the business, the industry staying in place, it's the whole community depending on that industry and it affects everybody.

As my good friend and neighbour Bud Wildman is wont to say, it's not so much sustainable forestry any more, it's sustainable communities. It's how we maintain the jobs and the lifestyle and all of that that keeps all of us going who live in northern Ontario. I'm from Sault Ste Marie and just in the last four years we went through a restructuring of our major industry, Algoma Steel. To do that we had to include the whole community so we could put the pressure on the proper places to make sure that the right thing happened as opposed to the most expedient thing, re the industry or some other vested interest.

It's good to see that you as the reeve of Ignace, and obviously your council, recognize this and that you are participating with the people who are most directly affected in discussions about this and coming forward and together laying them on the table.

Do you think this act will put in place a framework that will encourage and allow for that into the future? Do you think more of that will happen because of this act, or

would it happen anyway?

Mr Tardiff: I sure hope so and I think every other government probably is hoping the same thing, that it be worked on and brought so everybody is happy with it and it could work.

Mr Bisson: I just wanted a chance to respond to two things that were in your brief, because it's been said by a number of people and I think it needs to be clarified—that of tenure. You raised the question that you needed to make sure tenure was secured through the licence with people with large investments. You, I take it, were referring to the old evergreen clauses that were in the old FMA agreements.

Mr Tardiff: Right.

Mr Bisson: In the new act the same will hold true. In the existing act that we have now tenure is not defined in the act, it's defined in the agreement you sign with the crown. The same will hold true in the section 23 licence. The other thing is that area charges will be based, from what I understand—and what we're looking at is an amendment that would be based on productive lands. That's one of the things.

The last thing I would just say in closing is that obviously the purpose of committees is to hear what people have to say and then for the committee to go back and wrestle with what amendments we need in order to strengthen the legislation, and presentations like yours sure are taken into account.

Mr Miclash: Andy, thank you for taking the time to come down to Fort Frances. A lot of people here won't realize that you're somewhere over three hours away by vehicle and I appreciate your taking that time. As well, your input serving on the mayors and Reeves committee we appreciate.

Going back to a section on page 4 where you talked about local citizens' committees, I've been impressed about what we've heard so far from various presenters, actually, representing various groups throughout the north and what they see as a local citizens' committee as being and their mandate. I'm just wondering who you would see as possibly being a part of that committee and what would you see as a possible mandate for them?

1520

Mr Tardiff: In this area you have your tourist outfitters, you have your hunters, you have your fishermen, you have your first nations, you have your local businesses and all depend on the forestry. The forest industry itself should all be on there so everybody could come out of there with one good solution of how to do the cut, what we used to call the FMA for so many years, not for one year, because you know yourself the banks are not going to give you any money or finance you to work for one year. They used to have a 20-year plan, but five years at a time. I think if you see that happening, at least the industry could plan on it and the communities and all the business people could plan on it.

Mr Miclash: So do you see them as in an advisory capacity or do you see them as being part of the actual planning?

Mr Tardiff: As part of the actual planning.

Mr Michlash: The actual planning? Something you mentioned here too which is interesting: the volunteer training for local citizens' committee volunteers. I think that's an important aspect. We did a tour here last night. I myself, who have lived up this way all my life and am third generation in the northwest, learned quite a bit just from that trip into the areas that have been cut and replanted. I think that's a good suggestion as well.

Mr Brown: I too am a northerner, only most people in the northwest don't consider Algoma-Manitoulin to be in the north, but certainly we do, anyway. I was interested in the continuing debate about chippers. I don't really know why we're in this debate. I've been getting relatively confused. If it's a debate about which trees should be chipped, I can understand that, but how it happens you would think would be the industry's decision about economics.

Mr Tardiff: What we looked at is very simple. The size of the tree, yes, has got a lot to do with it. But if you read through there and look at it—I only had few hours to go through it and on the phone with Mayor Salonen. Truthfully, if you only get a one-year-at-a-time licence to operate your chipper, how could you buy a half-million-dollar piece of equipment and bring it to the bush when you've only got one year on it? When you're chipping in the bush, you're not bringing all your bark and the needles into a mill yard where you're then going to have to haul it out. Your portable chippers are way better for industry than they are if you have it right in the yard.

Mr Brown: I agree with you. I'm just wondering why this section is in the act to begin with because, if what you're talking about is controlling the size of tree that might be chipped and talking about best use, certainly that can be defined and the licence granted to the operator. Whether he chooses or she chooses—whatever means to do it should be up to them, I would think, rather than the ministry. I guess the section just confuses me as to why it exists in the present form, but I could maybe be convinced. I maybe haven't heard the arguments on the other side of it either.

Mr Wood: Take half an hour.

Mr Brown: You can have half an hour any time, Mr Wood, to explain it to me, but seeing you won't give half an hour to the Ontario Forest Industries Association to speak—

The Vice-Chair: Mr Brown, to the presenter, please.

Mr Brown: Frank just alluded to the concerns with the community advisory committees. One of the things I've been wrestling with and have yet to get an answer to is who actually appoints the people to this committee and who would you believe should be the people involved in the appointment process because, as we heard, I believe in Thunder Bay the other day, there were citizens' committees in the French Revolution also and their effect was not terribly good, at least for the people who lost their heads.

Mr Tardiff: I know which one you're talking about. I think the industry and MNR should be the people who appoint the people to this committee. They're the ones who are going to have to live with their decisions.

Mr Brown: To be clear, it should be a joint appointment process where—

Mr Tardiff: The industry and MNR.

Mr Brown: —both parties agree to the people who sit on the—

Mr Tardiff: Yes.

Mr Brown: So it would take both parties to agree that, heaven help them, Mike Brown might be sitting on this committee.

Mr Tardiff: Just like a jury.

Mr Brown: I'd just like to thank you too for coming so far on such a wonderful day. I can think of many things I might want to do on an afternoon as wonderful as this besides coming to a committee meeting.

The Vice-Chair: You might even get a chance soon to do that. Thank you very much also, Mr Tardiff, for appearing before the committee. As was indicated, you came quite a distance. You can be assured that your thoughts and comments you are presenting on behalf of the people you represent will be seriously considered.

Mr Tardiff: I thank you very much for giving me the chance.

The Vice-Chair: Ladies and gentlemen, Mr Dan Williamson, I think, is not in the audience. This completes, then, the presenters, because the last two presenters have informed the clerk that they will not be appearing.

This committee stands adjourned until tomorrow morning at 9 o'clock in Thunder Bay.

The committee adjourned at 1526.

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Carr, Gary (Oakville South/-Sud PC) for Mr Arnott

Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson

MacKinnon, Ellen (Lambton ND) for Mr Mills

Miclash, Frank (Kenora L) for Mr Sorbara

Ramsay, David (Timiskaming L) for Mr Grandmaître

Wood, Len (Cochrane North/-Nord ND) for Mr Morrow

Also taking part / Autres participants et participantes:

Wood, Len, parliamentary assistant to Minister of Natural Resources

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Yeager, Lewis, research officer, Legislative Research Service

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Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Thursday 25 August 1994

Journal des débats (Hansard)

Jeudi 25 août 1994

Standing committee on
general government

Comité permanent des
affaires gouvernementales

Crown Forest
Sustainability Act, 1994

Loi de 1994 sur la durabilité
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STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Thursday 25 August 1994

Jeudi 25 août 1994

The committee met at 0900 in the Valhalla Inn, Thunder Bay.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Vice-Chair (Mr Hans Daigeler): Good morning, ladies and gentlemen. First of all, I have to excuse myself for my voice but I picked up that bug that seems to be going around and it seems to not improve yet.

Mr David Ramsay (Timiskaming): Is that the Rainy River bug, Mr Chair?

The Vice-Chair: The Rainy River bug, yes. Well, I won't say where it's coming from.

Mr Len Wood (Cochrane North): It is spreading.

The Vice-Chair: In any case, I do hope you can hear my squeaky voice nevertheless. We're continuing the public hearings on Bill 171.

LAIRD VAN DAMME

The Vice-Chair: The first presenter this morning is Laird Van Damme, president of the Ontario Professional Foresters Association and the Ontario advanced forestry program at Lakehead University.

You have half an hour, Professor Van Damme, and if you leave some time for questions and answers at the end of your presentation, it would be much appreciated.

Mr Laird Van Damme: Thanks very much. I'm pleased to address this group. I've never done this sort of thing before.

The Vice-Chair: There's always a first time.

Mr Van Damme: Yes, that's right. I could read my submission and that will take about 20 minutes, or I could be very efficient and highlight the key points and we could probably get through it in 10 minutes. That would leave more time to follow up in summary, I guess.

The Vice-Chair: Proceed whichever way you want.

Mr Van Damme: Okay. Well, I'll summarize what I have passed out to you.

The first page is an introduction and it's fairly long-winded because I'm wearing two hats. I'm pretty comfortable doing that, as I represent two organizations, but I also am speaking from a personal viewpoint. I wanted to make that quite clear.

The Ontario Professional Foresters Association is an association of professional foresters that came into being in 1957 under its own legislation, the Ontario Professional Foresters Act. We have an executive director of the association, who is really the only full-time employee, and he's going to speak to this group later and will provide you with a lot more detail about the association, but it's worth bearing in mind now that some of the legislation that governs the behaviour of that body has some relevance to this act. I go on to make a case later that there are a lot of interrelated pieces of legislation and these all have to be looked at if this proposed act is going to have a real impact and really meet the aspirations of its authors. That's the real case I want to make.

I also represent the Ontario advanced forestry program. This is a continuing education program for professional foresters. As you can see, both programs have an interest in professional foresters, but the association is solely concerned with the behaviour of members, and this behaviour is both an ethical behaviour, a knowledge-based behaviour, an approach-to-practice behaviour, and it applies only to those who are members. It has no jurisdiction over others who are engaged in forestry activities; it has no impact on their behaviour. Now, this act will have impact on their behaviour, so you can see the importance of the interrelationship between this act and the Professional Foresters Act.

The Professional Foresters Association's objective, when it was created in 1957, was "to increase the knowledge, skill and proficiency of its members in all things related to forestry and to regulate the standards of practice of its members." It's only this year that it's getting around to adding standards of practice to the codes of ethics that were put down in writing in 1957. This increase in knowledge, skill and proficiency is also a shared interest of the OAFP, the Ontario advanced forestry program.

We have trouble with the acronyms all the time. In publications and that I call it the Ontario advanced forestry program—its acronym is OAFP—but in the submission I gave to you, to keep it distinct from the professional foresters association acronym, which is OPFA, I call the one OPFA in this paper and the other AFP.

Although this year I'm the elected president of the OPFA, I'll be really speaking to this group from personal insights. There wasn't time to get together and provide input that reflects the association in an official way. By the same token, there was no way for me to meet with the people in the Ontario advanced forestry program and put forward a formal case. So I'm speaking to you from

my experience in working with these two associations over the last three years, and then building on the experience that I had before as an independent forestry consultant from about 1984-91, where I worked in this province. These are the viewpoints that I'm bringing to this discussion.

The submission has three following sections. I talk in general terms about the legislation, and these are personal reactions when I read it and the supporting manuals. I got a copy of the draft manuals in the mail.

In the first case, the general reaction to Bill 171 is about how power is distributed. I would guess all things in law and politics are about power, and it appears that the minister does gain some power over the cabinet and the Finance minister while remaining responsible for management of crown forests. In this Bill 171, I can also see that citizens gain power through appeal and influence through advisory committees, but citizens can also acquire some measure of authority and responsibility through forest management boards. These are really interesting innovations, by the way, from my perspective. Licensees have more accountability; they assume a greater financial burden, it would seem. The professionals, the ones I'm going to really talk about, the foresters, retain authority as plan authors to certify management plans and may now be required to certify forest operations prescriptions. I'm going to speak a lot about that later.

All of the above tends to bring responsibility, authority and accountability closer to the ground. This is a really positive step. However, some will argue, and I'm sure you're going to hear from them, that the balance of responsibility and authority is not always consistent. For example, licensees appear to have more responsibility but perhaps some diminished authority than existed under the Crown Timber Act, but I'll let them speak on their own behalf, those who hold licences.

I want to make a case not only about the interrelationship between the different pieces of legislation that are implicated by this change to this legislation, but I also want to make a case that the legislation could create some space for the application of professional judgement by individuals engaged in the management of forest ecosystems. It already does this, but it's a matter of emphasis, and that's what I want to talk about in the sections related to professional judgement and certification that follow. This is where I put most of my attention, and most of my thinking went into this.

The legislation is, I believe, unique, and I'm not a lawyer nor a legislator. I don't know of any other, offhand, that is linked to a set of manuals, and these in turn depend upon 38, and counting, guidelines. The interdependency of these manuals and guidelines really requires their availability as a complete set, and it's kind of frustrating that it's hard to find these. Some of them, even the simplest ones, are out of print; for example, the jack pine silviculture guidelines. They're hard to come by, and it would be nice to get them in sets. It's also hard to obtain others that aren't in a constant state of draft. On the one hand that's frustrating, but on the other hand it's entirely understandable. These things are just packed with

current state of knowledge about forests, and knowledge is a very dynamic thing. So we're never really going to have these complete manuals, and that's okay; they're in a state of constant evolution.

But what is worrisome to me personally is that the language of the bill gives such weight to manuals and guidelines, the sense of the bill, the tone, and although this is quite consistent with the EA terms and conditions, I see an alarming trend, which is reinforced by some of the manuals, in particular the Forest Information Manual. This alarming trend to me is that knowledge under Bill 171 appears to become more centralized and is acquired more by those who develop manuals and synthesize information under the Forest Information Manual guidelines. They have a standardized information-gathering approach, and I can talk a lot about that later if you want to pursue those ideas.

The problem with this, I believe, is that those who are gaining the greatest insights on how the forest ecosystem is working and how management actions interact with natural processes and change forest cover over time are those who write manuals, and they have nothing to do with on-the-ground application of forest management practice. Now, of course, the intended audience are the practitioners, but it's a single source, these manuals. There's a whole pile of other material that these manuals tend to synthesize, but the original source material, somehow there should be some accountability to look for that.

This requires the professional to be constantly searching for the most up-to-date information. I think the emphasis on the manuals tends to detract from that, and it comes through to me loud and clear in this legislation and the tone in the manuals themselves about how they're a centralized authority of knowledge. I think this is a step backwards. I have philosophical problems with it from a point of view of science and a point of view of adaptive management.

I think this has surfaced as a search for accountability, and I label it bureaucratic accountability, a neatly followed paper trail. It's nice to have real clear standards. However, I think this system might work really well in a lot of human-engineered environments and a lot of environments that produce complicated things, like jet aircraft, but these things have known outcomes, very predictable performance, and forests don't. They just won't behave that way.

All natural systems, be they an individual human being or a forest, are going to have unpredictable responses to stimuli, unpredictable behaviour, and you only find out about it by fiddling with it, searching for knowledge constantly. I cannot imagine legislation for health care that would attach prescriptions in operating manuals for use by physicians. There wouldn't be that link. The unpredictable performance of these systems demands the creative genius of the human spirit and it demands an individual accountability. I want to talk about that, focus back to the people who are making these decisions on the ground.

0910

As an aside, there are about 700 RPFs in Ontario. This

is equivalent, by the way—this is trivia that I just found out—to the number of foresters who work in the state of New Hampshire, and New Hampshire is about this big on a map and Ontario is this big. There are precious few Ontario RPFs, registered professional foresters, who actually practice forestry on a full-time basis. I'm a case in point. I'm an RPF but I left active professional forestry practice three years ago when I became involved with the Ontario advanced forestry program. I'm now more of an educator than a practising forester. To entertain myself, I look after 6,000 hectares of forest with Abitibi through the university, one day a month. That is not atypical.

Of that 700, it's more like 300 are actually involved out there, and I think this is quite unfortunate. I think it's through their direct and personal intervention that you're going to develop the kinds of applied knowledge that can really be effective in achieving the goals that this bill speaks about, and I don't think the bill puts enough emphasis on the individual. The emphasis is on the manuals, the emphasis is on procedures, and it would be wonderful to see more emphasis on the individuals. That's not to say there's no discussion at all about individuals in this bill, but it's a matter of emphasis, once again.

It does speak in the bill about certain audits and things like this. Again, the attraction of the manuals is some level of accountability. Well, the audits could go and actually audit the individuals and their performance. That's not spoken to in this bill at all. This could be addressed in changes to the bill that governs the Ontario Professional Foresters Association and a variety of other legislation.

I asked a friend of mine who is a forester and then became a dentist—he works in town here—“What's happening in dentistry?” He said, “Well, it took 12 years for them to write the new Regulated Health Professions Act.” You guys would know about it. What he told me is that they were looking at how you guarantee competency assurance and all this sort of thing, because if you don't have a nice guidelines approach and manual approach so that you always have a solid reference point on how work is being done that's written down, how do you have quality assurance of the individual or the position? They were looking at a variety of means in this new legislation to facilitate this, and they worked with the various professional associations.

The route the dentists took was one of mandatory continuing education, but there are other techniques. In the United States, for example, the teachers have taken on a portfolio review approach. They're required to keep portfolios of their best work, and this is reviewed by peers as a means of recertification rather than mandatory continuing ed, because with continuing ed the assumption is that by embarking on continuing education, you retain your level of competency in the face of changing ideas on how things work. Well, that's an assumption. The only other way, the third way, is to do the audit of the individual. They're doing this in Quebec, but it's a pilot study and it's voluntary, a random audit of the professional foresters in that province.

Now, the Crown Timber Act had nothing to do with this in the past. This bill doesn't get into that sort of

thing. But again I'm just making the case that as you consider changes to the Crown Timber Act, you've got to consider changes to a variety of other acts as well.

Certification: The new bill does state that RPFs must certify forest management plans, and they've done this in the past. But I do recall in the EA that they were talking about certification of work schedules and ground rules by an RPF, and it doesn't appear to be mentioned in the bill. I could have missed it. I've only read this a couple of times. It might be in there; I might have missed it. I think that would be an important small point to look at for consistency, because the planning document is one thing, but these other elements of the plan, the standardized elements of the plan, might require additional certification.

One of the most interesting parts of Bill 171 is section 13, which describes operations prescriptions. This is really written quite well. It speaks of a requirement to describe current stand structure before you go in and do any kind of activity, the prescribed actions, and forecasted stand structures. This is the essence of adaptive management, which is alluded to in the other manuals. It's spoken to in section 13, but then the interpretation of operations prescriptions in the manuals is quite contradictory. The planning manual describes a process of identifying preferred options from silviculture ground rules on an operating area map, and then the forest operation manual implies a field survey approach prior to harvest, like what is done now by law in British Columbia, a pre-harvest silviculture prescription where they go in and for each stand specifically state what's going to happen there, and these are all signed by an RPF.

Now, that's quite an extreme situation in British Columbia. They've got now 36,000 of these signed-by-an-RPF stand descriptions on file, and they're not sure what to do with them. Their act came into effect in 1987. Yet still there's something really nice about the way section 13 is written. It really describes elegantly and legally what adaptive management is about that the manuals try to get at. In this submission I go on to say that this kind of wording could be looked at and expanded to approaches to forest management planning that would allow you to perhaps move away from the emphasis upon the manuals that this is a principle we're going to follow in our approach. That part I could understand you could have in law, and a lot of professional people wouldn't have any problem with that.

Why am I hung up on certification? It gets back to where in the very beginning of the paper I talk about building a case for space for professional judgement. I think there has to be space created in the legislation for people to cultivate personal knowledge about forest ecosystems, exercise professional judgement. What ends up happening in the manuals is they try to give the professional space. He can, or she can, for example, do things differently than what is required or discussed—not required; described—in the manuals, but has to explain why. That's okay. But again, it's a matter of emphasis. If you can clearly make space—and I have some suggestions on how to do this in margin notes, but I won't get into that now. It's just the idea I want to get across and keep hammering here: creating space.

So I'm going to finish up right now. I've wandered a little bit from my text. You can read it later. I organize my thoughts most clearly when I write, not always consistently when I speak. It's real easy for me to take off on a tangent.

I mention in the last page about this Regulated Health Professions Act. The idea came from a dentist. You folks might know more about it. I'm becoming really intrigued by it what really happened there. When I get some time later on this month, I want to pursue it further.

I'll be speaking with John Ebbs, the executive director of the Professional Foresters Association, but when we look at changes that might follow from changes to this act in the Ontario Professional Foresters Act, the idea of a self-regulated body certifying forestry and resource management practitioners beyond the classical domain of forestry practice, I think we've gained some public support. I think during the EA process they were saying, "You cannot use the adage 'Trust us.'" They were speaking about government-level trust. Individual-level trust among members of society is still fairly high, and this is supported by a recent Environics poll of 1991.

Anyway, I believe this bill is a small step in the right direction. A real stride will take complete revision of a variety of acts. For example, in this crown timber act, "forest ecosystems" and "forest products" refer only to the plant kingdom. There's no reference at all to the animal kingdom. This is probably because that's handled in the Game and Fish Act. But if you're going to really make some strides with this act, the Game and Fish Act has to be looked at at the same time. They can't be seen as separate things. There's the Trees Act and there's a variety of others. A lot of these have gone under scrutiny, but this one has gone furthest, and I'm surprised that it's gone this far without the others coming along with it.

Thanks for the opportunity to address this committee. I'm pleased to answer questions now if you have any.

0920

The Vice-Chair: Thank you. Each caucus is given a certain amount of time for questions, and following the rotation from yesterday, the government caucus is first.

Mr Wood: Thank you very much, Mr Van Damme, for coming forward with an excellent presentation. I just want to look at a couple of different areas. Maybe one area that you've talked about is under your "Power" heading: responsibility, authority, accountability.

I guess at this point in time we've had about two hours of presentations from the Ontario Forest Industries Association, professional foresters who either made presentations on their own or working for the companies, on behalf of the companies. They're saying that Bill 171 is moving too fast, nobody can get a handle on it and it should be delayed. I just want to throw that comment out there to you. You're saying you feel that Bill 171 is a step in the right direction, it's moving ahead and, taken from that, there's been enough consultation out there that the professional foresters know where we're going on that.

Mr Van Damme: I think it's a progressive bill. From their point of view, I can empathize; it might be moving

too fast. You're talking about fairly large structures that are harder to change than individuals. An individual can read this and interpret it and say, as a professional forester, there are some things here that make sense, but if I had a licence, it's that balance of accountability and responsibility. For example, there's a clause in there about cease and desist orders if you damage plant life. You can't do any forest operations without damaging plant life.

There are some strange things in the legislation, but I chose not to speak about those specifics because I thought you'd certainly get two hours from them and I think they can make their case stronger than I can. I'm empathetic with their situation.

As far as too fast, I think this took 12 years to get the Regulated Health Professions Act. It's going to take a lot longer than what's been allotted so far for this act, I would think.

Mr Wood: To move from timber to forestry?

Mr Van Damme: I believe so. For example, a buzzword and even a policy on integrated resource management was dominating the way we thought about forestry work last decade, and it's interesting. I could draw you a nice diagram about this because I was explaining this phenomenon to someone just the other day.

In traditional forestry, society was only interested in foresters interpreting forest cover on their behalf as it came to timber. That's what they asked us to do, and we did that fairly well right up until about 1970. Then there was interest in multiple resource use and that required minor modification. Then integrated resource management meant that you not only had to consider timber, you had to look in a different dimension of other values, moose and everything else at the same time. There was no legislative change for that.

Now, the imprint space is not just stands, not just a few different values; it's almost an endless array of values in one dimension, worried about millennia and genetic conservation in the time dimension and worried about stand and landscape phenomena in the spacial dimension.

So this three-dimensional working space just exploded in the last three years, and this legislation is trying to capture that. That's good, it's in the right direction. Our imprint space for work should be that big. But it's a fairly big jump and it's going to require a variety of things. That's why the Ontario advanced forestry program was created, in part to allow practising foresters an opportunity to reacquaint themselves with basic ideas on forest ecosystems to see what this meant for their new expectations. So it's been important for us.

Mr Ramsay: Thank you for your presentation. I just want to get a clarification about how the Ontario Professional Foresters works today. Is it not self-regulating?

Mr Van Damme: Yes, it is.

Mr Ramsay: Okay. Because you say on your last page, "A self-regulating body certifying forestry and resource management practitioners would gain public support."

Mr Van Damme: It's that second word that's the

radical one, resource “managers.” Right now the “foresters” definition has been pretty classical, and even within our association we choose to have it rigidly defined by a certain type of training. But you have out there, working quite effectively in forestry, people with different backgrounds and other resource management professionals: hydraulics, geographers, biologists, wildlife biologists. All of those are unregulated. There are some regulating bodies for biologists at a national level but not at a provincial level, and that’s where it really counts because then it dovetails with provincial legislation. So it’s that word; that’s what needs to be done.

Mr Ramsay: Okay. On the page before that you say another alternative is mandatory continuing education and periodic recertification of professional foresters. Are you saying there that’s what you’d like the government to legislate?

Mr Van Damme: That would involve changes under the Ontario Professional Foresters Act, or we could even do it ourselves if we chose to do it. But the problem is, if you do these things out of sync with one another—members are voluntary members, you know? Why would they go through all the hassle of mandatory CE if there’s not a requirement or a recognition in the workplace? Now, that can be a cultural thing.

Mr Ramsay: Well, this act says that you have to have your working plans certified by a professional forester.

Mr Van Damme: Yes, that’s right. There are 90-odd management units so that’s 90 foresters. Mandatory CE for 90 people? I don’t think so. It would be hard to do; there are logistical things. But I think that 90 is too small and that personal accountability is too small.

Mr Chris Hodgson (Victoria-Haliburton): Thank you very much. I enjoyed your presentation. I wish you had an hour. There’s a lot of—

Interjection: He wouldn’t get it.

Mr Hodgson: He wouldn’t get it, no.

Interjections.

Mr George Dadamo (Windsor-Sandwich): Time’s up.

Mr Hodgson: Yes, really. Thanks, George.

Mr Van Damme: I talk too much as it is. I can talk for an hour.

The Vice-Chair: Mr Hodgson, you have the floor.

Mr Hodgson: Yes, thank you very much. Can you go through with me again this question of where your concern is about centralized authority on the data collection?

Mr Van Damme: Yes. It’s the language and general intent of the legislation relying upon manuals, and in particular the Forest Information Manual. It’s talking about a way of standardizing data collection, and then it’s all interpreted.

I think centralized data collection can be really useful if it’s only for centralized purposes. It appears they’re trying to use this to also feed back information for local decision-making. For example, I think Statscan is an incredibly effective organization. They have a standardized survey. It’s theirs. It’s centralized data collections

that they use. People can access it, interpret it at their will. That’s okay.

But what I find in practice is that sometimes a client wants to know a particular thing about a forest. It has always ended up being, to be effective, a customized survey, customized data collection, with real specific purposes for a particular user.

This emphasis on the Forest Information Manual is one of a standardized approach across the province so that all can be aggregated upward so that they don’t have to do their separate surveys, like Statscan does. So it’s a pattern that’s worrisome. It’s a pattern that’s reinforced in each manual. It’s a pattern that tends to be reinforced in the language of the bill, and this pattern is this centralized knowledge idea that I have. It’s hard to put your finger on it.

Mr Hodgson: You touched upon an issue that’s kind of the heart of this whole bill and that’s the credibility or the accountability with the public. As you mentioned, there are three dimensions here that we’re trying to show sustainability on, and you’re suggesting that if you’re making a jet airplane, you have an outcome that’s very specific and you know what you want to achieve. It’s dynamic and it might change. How do you get that public trust and that accountability at the same time?

Mr Van Damme: I think some of the better parts of this legislation are beginning to build that. The allowance for these forest management boards is a real good innovation, and it looks like it builds on the ideas behind conservation authorities, forest authorities. The trust comes from a stronger sense of ownership at a local level, I think, and this is moving that way.

What does this mean for the individuals and how they respond? An example of this is, for a lark—not a lark—as part of an educational experience in one of our modules in the Ontario advanced forestry program, we asked a group of 20-odd practising foresters for their definitions of “sustainable forestry.” Most of them tended to hinge around the Brundtland definition, you know, “meeting the needs of today without compromising the needs of the future” kind of thing. But one said, “It’s whatever we decide it to be at that time,” and that was a real interesting one.

The general principles behind the concept of sustainability everyone can hang on to. The specific nature, for people to really have a sense of credibility and a sense of ownership, they must decide on their own, and that could change region by region, I would think. The nitty-gritty is going to defy codification.

Mr Hodgson: Exactly.

The Vice-Chair: Thank you very much for appearing before the committee. You certainly brought some new thoughts and challenging ideas before the members, and they will try to reflect those, hopefully, in the clause-by-clause considerations in the middle of September.

0930

THUNDERS WOODLANDS ASSOCIATION

The Vice-Chair: The next presenters, I understand, are here: Thunders Woodlands Association, Mr Alfred Fortier, president. Could you have a seat, please, and also

introduce the lady who is with you. We have simultaneous translation if anybody wishes to use French either in their presentation or in the questions and answers. So if you'd go right ahead and introduce yourself again for purposes of Hansard, and the lady who is with you.

Mr Alfred Fortier: My name is Alfred Fortier. I'm president of Thunders Woodlands Association. I want to present my secretary, Sharon Lapierre, the one who is speaking for us basically.

Ms Sharon Lapierre: I'm Sharon Lapierre, and basically what I do is assist in interpreting what we have to present in English for him.

I'd like to thank you for allowing Thunders Woodlands Association this opportunity in presenting its opinions and concerns regarding this very important bill.

The Thunders Woodlands Association represents 118 independent logging contractors. We are the grass roots of the logging industry as we operate the feller-bunchers, skidders, delimbers and slashers in the forests. We represent a significant part of the logging industry in northwestern Ontario. As such, we take great pride and interest in the implementation of Bill 171 as it has a direct impact on our livelihood and that of our children.

We appreciate the doors being opened for involvement and participation by groups such as ours. We work in the forests on a day-to-day basis and we also share your concerns in forest management on all fronts; namely, social, economic and environmental needs. We believe our input can enhance certain areas of Bill 171.

We are looking at this section with the understanding that a large company would have to prepare a forest plan for a management unit.

Subsection 9(2), "Minister's powers": "The minister may approve the plan, reject it or approve it with modifications as may be made by the minister."

Recommendation: The minister must clearly state that any penalties and/or fines imposed on the holder of the forest resource licence must be paid by the holder and in turn the holder cannot impose that cost on to an individual independent logging contractor. In other words, the licence holder is held accountable.

Reason: Situations have arisen in the past whereby an independent logging contractor, under the direction of the employer, had to move to another cutting site and was not given sufficient time to clean up the area. The independent logging contractor had to incur the cost of the fine plus the cleanup cost.

Results: If the recommendation is implemented, two things would happen:

(1) It would assist in preventing infractions under the act, as the licence holder would have to absorb the cost.

(2) The independent logging contractor would be given proper time allotment in cleaning up an area prior to moving to another site and also would not incur exorbitant unfair expenses.

Under part II of this legislation, section 12, "Local citizens' committees": "The minister may establish local citizens' committees to advise the minister on the preparation and implementation of forest management plans and

on any other matters referred to the committees by the minister."

Recommendation: Any large holder of a forest resource licence: The minister shall establish local citizens' committees which would include the independent logging contractor or their representatives.

Result: Minister will obtain a clear picture of the situation; long-term viability of large companies and independent logging contractors, as proper forests conditions will be maintained.

Under part IV of Bill 171, "Measurement of resources," subsection 42(1): "A person shall not remove forest resources in a crown forest from the place of harvesting unless the resources have been measured and counted by a licensed scaler."

Recommendation: All wood should be scaled by Ministry of Natural Resources scalers.

Results: consistent scaling practices. This would avoid the use by companies of volume tables and cull standards different from those applied by the ministry, which result in different volumes being calculated for the same timber, as admitted by Cameron D. Clark, regional director, northwest region, June 29, 1994. His letter is attached to this presentation for your convenience. It would also resolve the conflicts between the holder of the forest resource licence and the independent logging contractors. The ministry would have control of the situation.

"Exception," subsection 42(2): "Subsection (1) does not apply if the person has the written authorization of the minister."

Recommendation: specifics required if it impacts on the independent logging contractor, as he/she must be informed.

Part IV, "Methods of measurement," subsection 42(3): "A person who measures, counts or weights forest resources shall do so in accordance with the Scaling Manual or, if directed by the minister, in such other manner as the minister may direct in writing."

Recommendation: ministry official staff scales and weighs forest resources.

Results: eliminates problems and conflicts; ministry has situation under control.

"Records," section 43: "A person who removes forest resources from a crown forest shall keep such records as are prescribed by the regulations."

Recommendation: ministry scales and weighs the forest resources.

Results: problem solved; accurate records kept at all times.

General: We would like to recommend that this legislation be written in a working person's language.

British Columbia's Ministry of Forests Bill 13-158.4, mediation and arbitration under contracts and subcontracts: authorizes the Lieutenant Governor in Council to establish a mediation and arbitration system for use in resolving disputes under timber harvesting contracts and subcontracts. We believe that this piece of legislation is significant and would prove to be appropriate if incorporated into Bill 171.

In the management of the forests, every tree that is cut should be processed. That would eliminate waste on the forest floor and also eliminate any unnecessary cutting.

The importance of accessibility to the Ministry of Natural Resources by the independent logging contractors in the forests cannot be stressed enough. It is only appropriate to repeat one more time that as long as the holders of the forest resource licences are allowed to scale their own wood and use volume tables and cull standards different from those applied by the ministry, the result will be different volumes being calculated for the same timber.

In conclusion, meeting the present and future needs of the forests requires the full participation of all forest-related industries and workers. We support Bill 171. We sincerely hope our suggestions and recommendations are taken into consideration for the implementation of an act to provide for the sustainability of crown forest products in Ontario.

0940

Mr Frank Miclash (Kenora): Thank you very much for your presentation. It's very straightforward, very easy to follow. As you may have noted in the newspaper on Monday or, I guess, Tuesday's newspaper, a presenter who was before us on Monday felt that Bill 171 would have very significant effects on his operation. He was an independent contractor. Do you see any of these effects on your operations as well?

Le Vice-Président : Si vous voulez vous exprimer en français, on a la traduction simultanée.

M^{me} Lapierre : Okay. Tu peux parler en français, Fred.

Le Vice-Président : Une seconde, s'il vous plaît, pour distribuer les petites machines.

Ms Lapierre: Excuse me, sir, do you also have a machine for him so if someone asks a question in English—?

The Vice-Chair: Yes.

M^{me} Lapierre : Ça fait qu'il va demander en anglais.

Mr Ramsay: Might I suggest at the beginning of every day that everybody get the headphones so we don't have to interrupt the presenters? It should be just a matter of course so that the flow can be continuous and people feel comfortable speaking any language they wish.

The Vice-Chair: We'll take that into consideration.

Est-ce qu'on est prêt ? Alors, je demanderais à M. Miclash de répéter sa question. Mr Miclash, if you'd please repeat your question.

Mr Miclash: I was asking the presenters what effects they see Bill 171 having on their operation. As was indicated by an independent operator who was before the committee on Monday, he felt that Bill 171 would have grave effects on the operation that he was conducting in the forests. I'm just wondering what you have seen in terms of the effects this bill will have on the independent operators.

M. Fortier : Numéro un, ce qui figure sur le bill : si on regarde le gaspillage de bois qui se fait actuellement dans les forêts, comme jeter du bois à terre et puis le

laisser pourrir puis le «movent» pas back, ils ne le «movent» pas où il doit être et le reste du wood reste où il est. Tous les employés qui charient ce bois-là ne sont pas payés pour ça. Ils ne sont vraiment pas indemnisés pour le bois qu'ils ont coupé et puis le bois n'est pas posé pour aller au moulin.

On a des mouvements actuellement qu'on peut montrer plus dans le nord de l'Ontario, et une compagnie surtout. On a des «pictures» là-dessus pour montrer la réalité que le bois est vraiment endommagé dans nos forêts ici dans le nord.

On a dans le moment des scales qui sont vraiment short par nos contracteurs à l'heure actuelle. On a des proofs qu'on peut montrer partout. On a des fois des scaleurs qu'on a scalé back et les contracteurs sont tant dédommagés pour l'ouvrage qu'ils ont fait, absolument.

Mr Miclash: My second question is around the local citizens' committee, part II of the bill. You've come up with a good suggestion here that the independent contractor should be a part of these committees. Who else do you see as being members of these particular committees and what would you say the mandate of the local citizens' committee should be?

Ms Lapierre: For that particular section of part II, I would think the forest technicians, specialists of the forest, the grass-roots individual and, I would even venture to say, even the large companies should be represented. That way you have a full body of people. Neither side is biased, but you're balanced.

We have the expertise with the professional foresters. You have the grass-roots individuals who are certainly very knowledgeable if they've been in the bush for many years. Also with the individual companies, their cost etc—they certainly know that at the tip of their fingers. For balancing, I would think that would be very important and perhaps even an environmentalist; a good solid core of people from different walks of life to ensure balancing for everyone concerned.

Mr Miclash: Do you see other users of the resource, such as the tourist operator, the anglers and hunters, groups such as that as well being part of this?

Ms Lapierre: Very much so because if we do miss that sector, which is such an important sector, we'd certainly be amiss in arriving at concrete goals.

Mr Hodgson: Thank you very much for your presentation. You've got a couple of issues in the appendix of this letter that was sent to—firstly, your association's got 118 independent members. It must be quite a job. The independents in our area are independents for a reason: They like being independent. I commend you on that.

I want to go into this whole issue of scaling with you. You're suggesting that the ministry actually do the scaling or standardize the scale method and make it one method. The difficulty I'm having is that if the MNR—it has an interest as the crown, as the owners of the land; they don't own it, the people of Ontario own it—is responsible for that to make the volume look high—the person cutting the wood has an interest to make the volume look high, but the company that processes it has an interest to make the volume look low. Are you

suggesting that the MNR get involved in that as the land owner? I've owned land before that's taken logs to the mill and I'll tell you, the mill owners wouldn't like it if I was the one measuring it.

Ms Lapierre: Yes, we certainly anticipated running up against a bit of opposition with that recommendation. There are a couple of avenues that can be taken. The MNR certainly should have more direct control as to the resources that are being removed from its land. As with any other business, you have to be able to control the flow.

0950

I was at one meeting with Minister Howard Hampton and Minister Shelley Martel where in fact the individual who works for the forestry service had stated that he has scaled approximately 500 skidways over a two-year period. We're looking at a million of those logs being hauled out in a year, so you see we're way out of balance here. Something has to come up so that it would be fairer, perhaps with the ministry being involved, having its scaler but also an independent scaler, independent of the ministry service and of the company.

Mr Hodgson: That's what I was wondering, if we could get something like that—

Ms Lapierre: Exactly.

Mr Hodgson: —sort of like an independent audit, but have it in the scaling thing; they'd be independent, instead of the standard measurement.

Ms Lapierre: Exactly, and perhaps if the Ministry of Natural Resources could not have all those scalers available, at least in the bush once a week and the independent scaler following through, there would be recourse for the independent loggers to say, "The job just isn't being done here," and with that resource both the company and the loggers then are on equal footing.

Mr Hodgson: I could agree with that. That's a good concern. On this letter of June 29 that was sent to you from the regional director in the northwest region, can you explain to me how you read that third paragraph? What does that mean?

Ms Lapierre: For scaling there is the Wolf River system and there is also another system applied. Unfortunately, for the Minister of Natural Resources the companies are allowed to use the Wolf River system, but when it comes to actually scaling the wood, for the loggers another system is applied, yet you're looking at the same log or the same pile of logs, but you're getting two different averages here. I do not have an in-depth research as to exactly how both systems are calculated, but it is exactly how he explains it; we are coming out with different measurements, which doesn't seem quite feasible. A pile of wood is a pile of wood.

Mr Hodgson: I guess we'll have to ask the minister how the stumpage pays.

Mr Wood: Thank you for coming forward with what I see as an excellent presentation in support of Bill 171. As were the presenters prior to you, you're saying there are some recommendations and suggestions. One of them I notice is that you're saying you'd like to see a pamphlet or a simplified plain-language leaflet out there explaining

what is happening with Bill 171. This recommendation was also brought forward by another presenter a couple of days ago, suggesting the same thing, that we get plain-language pamphlets out there to the general population.

I'm interested in your saying that your group represents 118 independent logging contractors. That is a significant portion of the logging that is done out in northwestern Ontario. In supporting Bill 171, your concern is not about job loss or extra cost involved in this?

M^{me} Lapierre : As-tu compris ça, Fred?

M. Fortier : Non, je n'ai pas compris ça.

Ms Lapierre: No. At this time, the scaling factor is—

Mr Wood: You're quite—

Ms Lapierre: Yes, and of course job loss is always a concern but in these present times, with mechanism—

Mr Wood: You're not concerned.

Ms Lapierre: No, we don't think this bill—it'll certainly have an impact on price increases etc, but not significantly enough. Our main concern is the proper administration of scaling.

Mr Wood: There's a section in there, section 13, which means regenerating—you don't really have to refer to it—how do you regenerate a forest? Some of the phrases we've been using over the last couple of years are that if you go out and cut a hectare of forest, you should be able to regenerate that hectare of forest in 70, 80 or 90 years.

I'm wondering if you had a comment, or how you feel on this approach that we've taken over the last couple of years, compared to counting the amount of trees we put in the ground, the seedling and then say: "This is what we've done." Now we're saying that what is cut should be regenerated.

Ms Lapierre: Whatever is cut should be replaced; the exact amount should be replaced.

Le Vice-Président : Je vous remercie pour votre présentation. Ça termine les 30 minutes qui ont été allouées à vous. Je peux vous assurer qu'on va prendre au sérieux vos commentaires. We thank you for appearing before the committee and we will certainly take your comments into serious consideration.

Mr Ramsay: Is it possible to bring up a point of procedure?

The Vice-Chair: You can always bring up a point of procedure. Of course, we would not be able to discuss it at length right now, but if there's an opportunity to do so later on. We have had cancellations before. That opportunity will present itself.

Mr Ramsay: I would just like to ask the committee to reconsider the vote it took yesterday in not allowing the Ontario Forest Industries Association to come before the committee for an hour instead of 30 minutes. I was in Toronto yesterday, and Marie Reuter, the executive director of the association, called me and she was quite shocked that this committee would not give another half-hour to basically one of the largest associations representing the industry when I know there is time next week.

As you know, it's a very long bill, it's very compli-

cated and their presentation would exceed a half-hour and of course they want to allow members time to engage in questions. I've just put before the committee that we would reconsider it so we could give some positive news to one of the biggest associations in the province.

The Vice-Chair: That's certainly a point you may want to bring up again. However, the next presenter is here and I think it wouldn't be fair to the presenter to begin a lengthy discussion on the point that you raised. However, as I said, either at the end of the morning or if there is a cancellation, you may well bring this point up again and we can then have a discussion of this matter.

1000

NORTHWESTERN ONTARIO TRUCKING AND LOGGING ASSOCIATION

The Vice-Chair: Northwestern Ontario Trucking and Logging Association, Mr David Bak, president. Please introduce yourself and the lady who's with you.

Mr David Bak: My name is David Bak, president of the Northwestern Ontario Trucking and Logging Association and our secretary, Pat Lundy, is here with me today.

We haven't had a great deal of time to study this proposed legislation. I haven't really kept up to date on what you've got back in feedback. I saw a little bit in the paper. They said it's vague and fuzzy, and we'll have to concur with those sentiments, I guess. It seems to me there are a lot of good things in this legislation, but there are a lot of vague things too, and it's being rushed a little bit fast. I think it's such a change and there are so many different aspects being brought into it here. You've probably heard all that anyway. We've got another few points I'd like to delve into regarding private lands mostly. I'll just read on here a little bit.

The purpose of the Crown Forest Sustainability Act, as defined, is "to provide for the sustainability of crown forests and, in accordance with that objective, to manage crown forests to meet social, economic and environmental needs of present and future generations." Now, "crown forest" is defined as "a forest ecosystem or part of a forest ecosystem that is on land vested in Her Majesty in right of Ontario and under the management of the minister." Therefore, the intent of the act would appear to be to provide for the management of timber on crown lands. So that's on crown lands only.

However, when you arrive at subsection 58(1), you find a new legislated right for any ministry agent or employee to enter and inspect private land at any time that agent or employee feels is reasonable. Subsection 58(1) is under the "Remedies and Enforcement" section, but there's no provision in there for ministry officials to produce a search warrant or show cause, show grounds for suspicion or anything like this. It seems just a flat legislated right to walk in at any time, and that's on to private land, when we're dealing with a bill that's dealing with crown land, as far as I can understand it.

We don't think private property should be opened up to intrusion by public officials at will, and we note that in the past, attempts by the province to force work permits, the Trees Act and these other regulations on private land owners has helped to force down property

values, especially in the rural areas, because you're scaring away buyers who can no longer rely on privacy and enjoyment on their property. Just that fear alone is not helping property values.

If there's a suspicion of stolen timber, for instance, being on private property or something like this, I'm sure there should be something in the legislation that the agent or ministry employee has to show cause or prove grounds for suspicion, or a search warrant at the highest level, but there should be some justification, not just a flat legislated right that anybody can walk across the front of your patio any time and for any reason. This is a pretty broad interpretation, especially when you're dealing with crown lands in the first place.

Another section there is the crown timber reservations. As we stated earlier, even though this act appears to limit a crown forest to crown land, paragraph 29 of subsection 67(1) of the draft regulations allows the ministry to grant cutting licences on private land to individuals and companies other than the land owner of that property for the harvesting of trees that are reserved to the crown in the original patent. Clause 2(a) of the regulations also provides for management and regeneration plans to be prepared for crown timber on the private land where the harvesting is to take place. The regulations seem to indicate that the land owner with crown timber reservations will pay all or most of the regeneration cost on their land in this process. It's a little vague, and there's another thing that should be ironed out that we see.

Most private lands that have timber reserved to the crown—it's mainly pine trees—were patented under the various legislative acts, such as the Mining Act, the Boer War veterans act, the Public Lands Act, the Homestead Act, and you can go on and on, the Fenian veterans act. Processes were made available under those acts for the disposition of crown timber for harvesting by licence holders or the land owners themselves, and those processes have been in use for decades.

However, not one of those acts provides for government-enforced regeneration programs forced on the land owners who have these pine or crown reservations for the trees. That's quite an expense added on. How much it'll be we don't know. We don't know what the stumpage rate will be. The old acts, mining acts etc, say that the land owner or the licence holder will pay the going rate for stumpage. We don't know what that is. What's it going to be now with these regeneration charges added on? There's this pretty grey area here for dealing with.

I'd like to add that many of these private lots with pine or other trees reserved to the crown have been managed for generations by the land owners, consecutive land owners, and they've received nothing from the crown for their efforts. The crown has taken no interest in managing these properties, and all of a sudden they want to step in now. We don't think the ministry should be allowed to step in, grab the high stumpage fees and put the forest regeneration and forest management costs on the individual land owners. After all, it's the land owners who have paid the taxes on these properties, in most cases anyway.

One other item is on the "forest resource" definition. It would seem that there is too broad a definition for

"forest resource" in the act. The definition should be revised to clearly exclude private timber. We would suggest the following wording:

"'Forest resource' means trees and any other type of plant life prescribed by the regulations that are the property of the crown that are in a forest ecosystem."

That would clear that up for future problems, future interpretations.

Outside of that, as I say, there are many good points in the act, but I think there are a lot of things that have to be cleared up that you should be dealing with and involving the public a little more. And bringing this into private land when it's defined as for crown land, I question even the legality of it, to be honest.

Thank you. That's basically all we had to say on that part.

Mr Gary Carr (Oakville South): Thank you very much for your presentation. Up to this point, I wonder what type of involvement you've had with the bill. Have you been involved in it, or with the—

Mr Bak: Not really. It just came out and we got something about a month ago.

Mr Carr: Yes, and you haven't had too much time, I guess, then, to go through all the various manuals and regulations?

Mr Bak: Not really. I've looked at some of the regulations. I've scanned over it.

Mr Carr: Many people have said that, and as you know, we're going to be going through clause-by-clause in September. As things come out, a lot of people, as they dig into it, may have some more suggestions, so we would encourage you to send anything you have to the clerk, who then would distribute it, because I think we ran into a little bit of a time squeeze. In a lot of cases, people didn't have a chance to go through it and we're talking about something very complex.

One of the questions I've been asking various people, particularly the large companies that have come in—because they've come in and they've talked about some of the things they'd like to see changed. Almost everybody to a person has said they agree with the theory behind why we're putting this act together and they agree that everything, including the title, is fine, but when you get into the nuts and bolts, many people are very concerned about it.

As we've gone across various communities in the north, Spruce Falls, Avenor here, E.B. Eddy, have said if there aren't major changes, we shouldn't pass the bill. It makes it very difficult for somebody like myself, who will be one of the 129 members who gets to vote on this bill, when you hear from communities with large employers—in each of those communities they're probably the largest employer—that are saying to me: "Don't pass this bill. If you don't make the major changes, we don't want it."

I just wonder what your thoughts are. If the bill isn't changed, if you were in my position, the one who gets to vote on it, how would you vote when it comes to the third reading and final passage of this bill?

Mr Bak: Don't pass it the way it is, whatever you do, please. Don't leave the door open with a bunch of—

Mr Carr: You wanted to say something too?

Ms Pat Lundy: No. I agree with you.

Mr Carr: You just wanted to jump forward and say it too.

Mr Bak: Do it right or don't do it. Don't rush it through, whatever you do.

Mr Carr: I don't know as a group how much opportunity you have to follow what goes on, but since I was elected in 1990, I've seen bills come in with a tremendous amount of amendments. Over the last little while, I've seen some bills go through the way they are. We will be attempting to take your thoughts into consideration in proposing amendments, but as you know, even on this committee, the government has the majority.

If somehow you can find out what is happening, and it'd be difficult to do that, and follow it, I would like some guidance on it, because I will tell you right now, I will be voting against it based on what I've heard from the various people unless there are major changes. I don't know how people in communities, whether they be the member from Thunder Bay or even Len in Kapuskasing, could vote for something when their largest employer says, "Don't vote for it."

So it's going to make it very difficult, but we are going to have some amendments come forward, and what I would encourage you to do is somehow try and at that point make a decision, because we don't get, after clause-by-clause, a chance to say, "Well, maybe the regulations will be better and maybe things will change." We will need your guidance and I would encourage you to do that as best you can so that when the vote comes, we'll be able to make an informed decision on how to vote. But I appreciate you coming forward and giving us your thoughts, and we'll continue to look for your guidance.

1010

Mr Wood: Thank you for coming forward and making some ideas and suggestions. You've made some comments as far as private land is concerned and why that is covered in here. What we're talking about here is under the Crown Timber Act, amendments to the Crown Timber Act to the present act, Bill 171, and those sections were in the Crown Timber Act of 1952, which is 40 years ago, to allow for the seizure of timber if dues weren't being paid on it on private land. So it's on the advice of the Attorney General and those ministries it's continued on in Bill 171. It's nothing new; it's just that it's still covered under that particular act.

Mr Bak: The legislated right on to private, though, is a little bit more broadened and intrusive, as far as I'm concerned, in this act than it was in the old Crown Timber Act.

Mr Wood: Yes, I know exactly what you're saying, but it's not something new. It's been there for 40 years, and it was probably there in the 1926 timber act as well.

There's no doubt that there are going to be some discussions in the fall on what kind of template or plan is out there for the private lands. Mr Hampton has mentioned this in the Legislature on first and second

reading, that right now we want to deal with the crown lands out there and that there be some discussion with all three parties as to how we set the template out there for the private lands and the forests that are on there.

I don't really have a question, other than following up on what Mr Carr is saying, that there is some opposition to the bill without certain amendments or clarification on it, but there is also a lot of support. The presenters who came forward this morning are very strongly in support of Bill 171 moving ahead, and there's no fear of losing any jobs or any extra costs involved. I know Mr Bisson has a question that he wants to ask.

Mr Gilles Bisson (Cochrane South): I'd like to apologize; I didn't catch your whole presentation, and the questioning caught my interest. I'm looking at subsections 58(1) and 58(2) of the act, and basically what it says is that it gives the ministry the power to be able to go and inspect land in the event of this act. In other words, if there are forestry practices happening on land that are inconsistent with the act, they would have the ability to go and inspect. Just to clarify for me exactly, do you feel the crown should have no jurisdiction over private land, is that what you're saying, when it comes to reforestation?

Mr Bak: Well, not in reforestation. If there's an agreement or there's a—but this leaves it open to any—if there's one pine tree on a property, and 85% of the land in this country has a pine right on it, that allows anybody any time to come in and walk right through.

Mr Bisson: For what purpose, though?

Mr Bak: Well, for any purpose.

Mr Bisson: Because what I understand—

Mr Bak: It doesn't preclude any purpose, does it?

Mr Bisson: I just want to make sure I understand where you're coming from, because if there's a question, you know, that the right to privacy and the right to tenure of land is something that's very—it's what our principles are all about in this country. I'm trying to figure out, because what it says is that it's in regard to this particular act and that you can't go into a private dwelling or anything else unless you've got a search warrant, which is consistent with the laws of the land, and I'm wondering, I'm not too sure—

Mr Bak: Well, you've got it—I mean, your forest—

Mr Bisson: Is your fear—

Mr Bak: It doesn't, but okay. As I say, you're dealing with crown land. In one place you say crown land and the next place you're jumping into private land. Is this bill dealing with both or it is dealing with crown lands, land vested in Her Majesty in right of Ontario?

Mr Bisson: So the point is, if harvesting is happening on private land, your belief is that 171 should not be applicable. Is that what you're saying?

Mr Bak: If it's a crown timber reservation, there's supposed to be an agreement anyway. Then that's understandable, of course. The ministry employees already have that right, or an agent of the ministry, to go on to private land to—

Mr Bisson: So as long as the entry on to the land is

consistent with the laws of the land, that's fine. That's what you're telling me.

Mr Bak: Yes.

Mr Bisson: Okay. I've got you.

Mr Michael A. Brown (Algoma-Manitoulin): Good morning and thank you for your presentation. You have raised some issues that previously hadn't been raised, and I think they're important issues, especially regarding the entry on to private land. It seems to me that we are providing a huge new power to the ministry here. If everything was subject to section 2, to the search warrant, would that satisfy your particular concern here?

Mr Bak: Well, they should show grounds or there should be something there. It should be spelled out a little different than it is. That's too broad an opening there for abuse in the future.

Mr Brown: It would seem to me to be consistent with other Ontario law that we would require a search warrant—

Mr Bak: I would think so.

Mr Brown: —on private land and that that would be the remedy here. I don't know why it's written and haven't heard a satisfactory explanation from anybody about why it is written in such broad terms. I always have this fear of Big Brother, justified or unjustified. In an age of photo-radar and an age of increasing electronic surveillance of the ordinary folk, it seems to me that Parliament, or the Legislature, has some duty to look after the rights of individuals in this province.

On the second question, I know you've raised this issue with me on a number of occasions, and that's the trees reserved on crown land, and in this area I understand it's mostly pine. We heard a presentation, I believe it was in North Bay or Kapuskasing—North Bay, I believe—from a forester who was in the employ of the ministry at one point but is now a consultant, who is suggesting a very radical remedy, and that was, he believed, because at least in the northeast in some areas, there are huge amounts of timber on private lands that are not really looked after by anybody—the owner is absentee, and often we don't even know who the owner is any more—there is a huge amount of timber that is not being utilized in a way that is appropriate. Is that the case in the northwest I guess is what I'm asking.

Mr Bak: There are not that many areas. There are a few absentees. There are some people from Europe who own a few large tracts.

I can understand that there is some need to manage or to—you don't want to see the timber falling down, but I guess I'm saying, let's manage the crown land first, if we can do that. We see budworm by the hundreds of thousands of cords going down and that's not being managed, and the pine rights, the pine trees on the private lands, haven't been managed. Now, let's try to manage crown land, and I'm sure our ministry people—they've got enough to do with crown land. I don't think they want the added burden of investigating every private land in the property in the district. I think they've got enough to do just looking after crown these days, especially with the cutbacks and everything else, budget cuts. Let's look

after that first. That's our opinion.

Mr Brown: I've heard the argument from some friends of yours that the pine that is on those private lands certainly hardly belongs to the crown any more. The crown got their timber three generations ago, and it was replanted and tended by other people, and now we have mature stands again and the crown had little or nothing to do with those trees.

Mr Bak: That's true enough. The thing is, as I say, they haven't managed it, but now they want to come in and take over, get the high stumpage out of it and force the land owner into—I mean, you might as well just walk away from those lots and let them go for taxes. They're going to be worthless if they have any amount of those reservations on there.

1020

The Vice-Chair: We actually have a little bit of time, since the next presenter is only scheduled for 10:30. We can either begin with the next presentation or, Mr Ramsay, if you want some discussion of the point that you brought up earlier, we have about seven minutes.

Mr Ramsay: Thank you, Mr Chair. Yes, I'd like to, and that's why I wanted to give some advance warning, so the members of the committee could think about the motion I would be about to then put on the floor. I would move that we would again consider the request by the Ontario Forest Industries Association for an hour of the committee's time to discuss the very important forestry bill that's before us today. Is there a seconder?

The Vice-Chair: The motion doesn't require a seconder. Do you want to write that out? Mr Mammoliti.

Mr George Mammoliti (Yorkview): While I appreciate Mr Ramsay's motion, I need to talk a little bit about why I'm not going to support it. It's no secret to anybody that I think that in view of what's happened with the subcommittee in the past, and talking about how much time should be allocated to presenters and finding out as well that there had been many people who have asked for more than a half-hour, and because we have wanted to expedite and hear from as many people as we could, a half-hour was allocated to everybody. To pick one group and say this one is more important than the rest I think is unfair to the rest of the groups. What will all of those other groups say if they find out that we are allocating one particular group an hour when a lot of them would have preferred an hour in front of this committee? So, in view of that, I would suggest that we continue with the schedule as planned, and I'll be voting no to the motion.

The Vice-Chair: I encourage everyone to be quite brief because we have only five minutes.

Mr Carr: I'll be very brief. As I look at it, this is a bill that's very important. If we can't give one extra half-hour to an association that represents major players in here, then I think there's something wrong. They have a detailed presentation. I think most other people, including the companies that are represented and have been in here, would say that this group deserves extra time. I think it would be silly not to give an extra half-hour to a group that's such a major player, so I'll be supporting Mr Ramsay in his motion.

Mr Brown: I of course made the original motion, so I'm in support of hearing from the forest industries association. To the point that Mr Mammoliti made, I am not aware, as a member of the subcommittee, of any group that has asked for more than half an hour. I am also aware that informally, anyway, and at least in practice, many groups have had 45 minutes before this committee because there was the time available. I'm also unaware of any group that the committee has refused to hear. We have heard everyone.

There's no time pressure on this bill that would require the committee to hold hard and fast to a half-hour rule. When you're looking at the Ontario Forest Industries Association, you are looking at the major players, from an employment standard in the province of Ontario, talking about a change to a bill that was first enacted in 1952. We're talking about 42 years later, major changes and we're not willing to listen to them for more than half an hour when we have the half an hour.

A union gladly said, "We'll permit the Ontario Forest Industries Association the time, to get the extra half-hour because they know the importance of employment and good forest practices to the people of Ontario." The Ontario lumbermen are fully in agreement with this, and I would be happy to give the Ontario lumbermen, if they want, an hour. We have the time. The idea that we don't have the time is a myth. It makes me quite upset that we won't listen to one of the major players for more than half an hour.

Mr Wood would say: "Gee, some of their members have talked for a little bit of time. We should count that in with theirs." Well, I don't think so. I think we need to deal with the major players for this bill to have any credibility when it gets into the clause-by-clause.

The Vice-Chair: Thank you. Mr Hodgson and Mr Mammoliti, and then I will think we'll take the vote because we're getting very close to 10:30.

Mr Hodgson: I'll just draw the committee's attention back to last week. For those who weren't with us last week, we went to a very nice place called Kapuskasing and we were presented with a representative of Spruce Falls named Kent Virgo, I believe, and Kent was allowed two presentations.

I think a precedent's been set there, and we've also allowed other groups to join after the deadline. We passed a motion just yesterday that allowed two other groups to join after the deadline. This could be treated as another request for an additional half-hour and that would be quite consistent with what we've done in Kapuskasing with a man who wanted to have an hour. We divided it up and called it two half-hour presentations, and it would be consistent with our motion yesterday to try to accommodate everybody who wants to speak before our committee to have an opportunity to do that.

So I'll be supporting this motion because I look at it as another half-hour request, which would make the total one hour for this very important organization.

Mr Bisson: That organization's more important than all the others.

Mr Hodgson: No, it's not.

Interjections.

The Vice-Chair: Order, please. Mr Mammoliti has the floor.

Mr Mammoliti: My point exactly, and I just heard some heckling from Mr Carr. Mr Carr was saying that they'd be prepared to listen to them by themselves if that's what you want, and you've got quite a bit of time on your own time—

Mr Carr: All on the record in Hansard.

The Vice-Chair: Mr Mammoliti has the floor.

Mr Mammoliti: We're all on the record.

Mr Carr: Yes, you don't want—

The Vice-Chair: Mr Carr—

Mr Mammoliti: Through the Chair—

Interjection.

The Vice-Chair: Mr Carr, Mr Mammoliti has the floor.

Mr Mammoliti: Through the Chair, and I think that the point my colleague Mr Bisson makes—

Interjection.

The Vice-Chair: Order, please.

Mr Mammoliti: —is a good point and we need to remember that indirectly, by saying today that this organization deserves an hour, what I believe we're telling the rest of the grass-roots organizations and the independents and others who have come in front of us is that they're less important than this organization.

Quite frankly, while I know the intention is good perhaps on both sides, the Liberals' and the Conservatives', I think that indirectly that's what we'll be telling the rest of the organizations that have been in front of us and perhaps the ones that want to be in front of us. Again, I'd reiterate that by doing this I think that—

Mr Miclash: Tell us who.

The Vice-Chair: Order. Mr Mammoliti has the floor.

Mr Miclash: Who?

Mr Mammoliti: —we'd also be setting a precedent in that subcommittees have always dealt with time allocations and—

Mr Brown: We thought we had an agreement yesterday.

The Vice-Chair: Mr Brown.

Mr Mammoliti: Well, you didn't have an agreement. My understanding is that there wasn't an agreement, and it came to the committee and the committee voted on it and now I see another motion in front of us again. That's another point that needs to be brought up: the fact that this is the second motion, and I'm not even sure whether that's in order, Mr Chair.

The Vice-Chair: Thank you.

Mr Mammoliti: But we'll leave it at that and we'll take the vote.

The Vice-Chair: I have consulted with the clerk and he assures me that it is in order. We will now take the vote. I'll read the motion again.

Mr Carr: Make it recorded.

The Vice-Chair: That the committee allocate one hour to the Ontario forest products industry association to make its presentation before our committee in Toronto next week. Recorded vote. All those in favour?

Ayes

Brown, Carr, Hodgson, Miclash, Ramsay.

The Vice-Chair: All those opposed?

Nays

Bisson, Dadamo, Martin, MacKinnon, Mammoliti, Wood.

The Vice-Chair: The motion is lost.

1030

STURGEON TIMBER LTD

DORION FIBRETECH LTD

The Vice-Chair: I would like to return now to our regular agenda. The next presenter scheduled for 10:30 is Sturgeon Timber Ltd and Dorion Fibretech, Mr Keith Harris. Please have a seat.

Mr Brown: Mr Chair, just while he's coming to the mike—

Mr Carr: He's already there.

Mr Brown: —if I can just give you notice of a motion that I will move that Marie Reuter be given half an hour to present to the committee.

The Vice-Chair: If there's an opportunity, a motion is always in order.

Interjection: She's given up her spot.

The Vice-Chair: Mr Harris, you have half an hour, and please leave some time for questions and answers at the end for each caucus. Go right ahead.

Mr Keith Harris: Thank you. First off, I don't intend to go over an hour. All in favour?

Interjections.

Mr Harris: Good morning, ladies and gentlemen. Before I make my comments on Bill 171, I would like to familiarize you with just who I represent and the amount of people I represent and what it is we do.

I'm the vice-president of Sturgeon Timber Ltd and Dorion Fibretech Ltd. These are two companies that are situated in Dorion, about 40 miles east of Thunder Bay. Sturgeon Timber was started in October 1986. It was a takeover of an existing live-in camp operation by Avenor and it employed about 120 personnel. Then, in October 1986, my partner and I bought out the operation and we took it over and we've been the largest contractor for Avenor since then.

We are working on what is called the Black Sturgeon forest management unit. That's located about 50 miles northeast of Thunder Bay. Our operation is out of the bush camp and it's called Camp 45. They number all the camps around here. It's quite familiar to the whole area where this district is.

We employ about 120 unionized people, from mechanics, truck drivers, you name it. It's a 12-months-a-year operation and we produce about 270,000 metres of woodfibre. All of that goes directly to the Avenor mill. In our operations, we are responsible for the planning, the roadbuilding, the harvesting and the regeneration of the

allowable cut plan. The planning is done with our own licensed foresters working in conjunction with Avenor Inc forestry personnel and the Ministry of Natural Resources personnel, which we have a very good relationship with, so far.

In one year, our roadbuilding program will consist of about 25 kilometres of class 1 road, about 75 kilometres of class 4 and 5 roads, most of which are maintained year-round. Most of our areas are well used by hunters and fishermen, along with our neighbour who is on the same limits, Canadian Outward Bound Wilderness School.

In our harvesting program, we extract spruce, balsam and poplar to be chipped onsite and sent to the Avenor pulp mill for the making of the news and kraft pulp paper. We also take out quite a large amount of sawlog material and send it to the local sawmills and we also take out the high-quality poplar veneer logs to be sent to the MacMillan Bloedel plywood mill. So in our operation we're feeding off not only Avenor; all the existing mills. Wherever the highest-quality product should go, that's where it goes, and we've been doing that for—well, I've worked on that limit for 25 years, but we've only owned the operation since 1986.

Our reforestation process begins with scarifying our cut areas as soon as they're harvested so that tree planters can come out the following spring and plant the new trees that are grown in our local tree nursery in Dorion. We have quite a unique situation, because the area we live in has a tree nursery and the people in our little community there, about 800 people, do the harvesting and also the wives and the students, during the summer, do the planting of the trees, back in the same cycle again.

So you can see that our operation is one that creates employment for local residents and also a lot of enjoyable recreation for all the public.

Just about the whole Black Sturgeon management unit block was harvested once before in the 1940s and 1950s, using horses, bucksaws and the river drive method for wood deliveries. So we've gone back now and we're harvesting the same area. In fact, we have employees in our operation who have cut the same stand twice. It's kind of a unique situation because they started, when they were 14 years old, with the old bucksaws and that and it was quite a unique thing to have the guys cut the same tree twice.

A large majority of our stands of timber that we harvest today have grown back naturally—nothing was planted—and it's very heavily infested with the spruce budworm, so it's more of a salvage operation. Our average tree age would be 40, 50 years. We have very little of the mature 120-, 160-year-old timber left. What's happening now is that we're trying to salvage everything we can out of it because the whole area is completely becoming dead. It's about 8,000 square kilometres, this Black Sturgeon unit. It's quite a large area.

There was some spraying done back in the 1950s that did help, but since new laws have come into place, there's no more spraying being done and we've lost quite a bit of timber. So we're in a salvage mode there and that's one of the reasons why the chipper's there. You

just can't touch the stuff very often. You can't make a sawlog out of it. You can't play with it with the different harvesting equipment. It just breaks up into pieces. The chipping operations are quite effective.

Also, on our Black Sturgeon licence we have a large amount of scientists from Forestry Canada and they're doing extensive research now. This is a 75-year project on the effects of harvesting on the environment. This is quite a unique situation. They're doing it down to the ecosystem, to the budworm and the bugs and you name it.

The Black Sturgeon licence has about 15 years of woodfibre left at the rate that we're going on it. At the present time, there are only two contracting operations working on the Black Sturgeon licence: us and a smaller contractor just out of Thunder Bay here.

Since 1991, we've had two portable chip harvesting machines that chip the full tree at the stump. But, going to portable chippers in the bush, we have been able to gain the fibre utilization of about 15% per hectare. There's no more waste in the branches and the tops are all being utilized right now. This is compared to the old conventional system, where they were bucking it up into pulpwood and there was quite a bit of waste and residue left in the bush. That's our first operation.

Our second operation is Dorion Fibretech. This is strictly a chip plant operation that is situated in Dorion. This operation was started in 1993, when the Avenor mill turned over to chip deliveries for their only fibre requirement. They used to take about 1.4 million cords of roundwood. Now, through modernization, they've gotten rid of the wood-rooms and they've downsized the amount of people in the mill. Production has stayed up. We do all the chipping right in the bush, dump it in the trucks, it comes in and it's dumped right in the digesters. It's about a six-hour time frame right now from the time a tree is cut and it's going to the digester and the newsprint. So it's quite a modern operation.

Because they went to this chip only, a lot of their suppliers were not only large contract operators under the Avenor group; there were a lot of little farmers and jobbers and you name it around the local area who had wood to cut and sell off to private property. Some had crown timber management licences; some had OICs. They were kind of stuck. They had nowhere to get their wood chip now.

At Dorion Fibretech, at the present moment we have about 95 contracts out there. These are all little independents that can't afford to go and buy a three-quarters-of-a-million-dollar chipper to get their woodfibre to the mills. So we purchased a chip plant from BC last year and we set it up down in Dorion. It's an ideal location. It incorporates pretty well all the little jobbers east of Thunder Bay and we do all the chipping for them. We buy the wood from them but it's up to them to get the licences from the crown to get the timber cut. We're strictly just a supplier. Actually, we're just a middleman. It's just a process they're going through to get the wood fibre to the mill. They just pass it through our door and out the other end.

The purchase wood—we call it “purchase wood”—is part of the wood that the company used to purchase on its own. Because of union agreements, they were allowed to go out and purchase only 31%. Since then, that's changed somewhat, but they've turned the purchasing over to us, so we go down and deal with all the little jobbers.

Our workforce at the Fibretech plant is about 18. We rely on about another 15 truck drivers to deliver the chips to the mill for 90 different contractors. These wood suppliers consist of jobbers—that's what we call little private operators. We now cooperate with three native bands that are supplying us, farmers and independent contractors.

Many of these guys have been in business for many years and a lot of them are family operations. They've always sold their wood to different pulp mills in eight-foot form, but because the mills have changed over to wood chips they've been forced to sell their pulp to local chip plants. So far there are only two. There's one east of Thunder Bay and one west of Thunder Bay.

All the woodfibre purchased from these suppliers has already had the veneer and the sawlogs extracted from it. This is very important because we are feeding the local mills with the value products. It's very important also that we allow these contractors to take out the higher-valued woodfibre because it's where most of their profit margins lie, in the sawlog or the veneer. The rest of it for pulpwood has a pretty standard price throughout the northwest.

Our production at the chip plant is about 250,000 metres of poplar chips and about 50,000 metres of conifer chips. Along with Avenor Inc being our biggest customer of wood chips, we also send them our bark. They utilize it as hog fuel to burn in their cogen plants. Kimberly-Clark of Canada in Terrace Bay also takes some of our fuel.

There's a lot of talk now about generated waste. Domtar in Red Rock is talking about possibly a cogen. Our local tree nursery is looking about putting in a small cogen from Finland. That's going to be quite unique, because the trees that are harvested, the bark will be put back into the cogen plant to create hydro and heat to generate the new trees that grow right back on the same tree site again. It's quite a cycle we're going to have going there.

To service both Sturgeon Timber Ltd and Dorion Fibretech, we also built a large service garage. We do a lot of repairs to all the public and our own equipment. We employ about seven mechanics in that garage on a full-time basis.

By passing this Bill 171, we feel that our operations will be put in great jeopardy. Did you all receive the handout? I'm going to get to that in a minute. That's the mainstay of our discussion.

What we need is a guaranteed fibre supply annually to keep us operating. With our two operations it's kind of a difficult situation because the Sturgeon Timber group is under the Avenor blanket right now and Fibretech is a separate issue that works off the crown management

units. Avenor looks after the licensing of the limits. We must maintain a guaranteed fibre source to our operations because we have a guaranteed market.

With Fibretech we've got a 10-year agreement signed with Avenor for chips, as many as we can produce, and our capacity is 300,000 metres. It must be made clear that the announcement of surplus hardwood timber, whoever's going to decide that, not interfere with the existing operations that are running efficiently right now. Without the guarantee of a long-term wood supply for our operations, it will make it very hard to deal with the banks if we need capital dollars for expansion and modernization. Having a mill licence for only one year will not make for a very secure operation.

On these chippers, one of the recommendations in Bill 171 was to license whole-tree chippers. First off, there's a misconception in the word there because a professor of forestry pointed out to us that these are not full-tree chippers. They don't take the full tree. The stump is still there; it's just the stump up. This is a point that came up in last week's review here.

One of the things about these chippers over a sawmill chipper is the quality. There's been a lot of extensive research done, and development. It's a very broad field right now, chippers, because all the mills are turning over to that. The chips coming out of a full-tree chipper or a total-tree chipper are quite superior to those of a sawmill chipper. The sawmill chips, mainly from the slab of a sawlog, contain the knots, any bark left on and the exterior of the tree. The chips from a sawmill are not recommended for the process in the paper industry.

In today's competitive pulp and paper market it is of the utmost importance that high-quality woodfibre be used to ensure good dollar for your product. We feel very threatened by woodfibre supply management, which will control the supply and the price, whether it be the sawmills having the option to make lumber or to make chips. Right now, we have sawlog material going through sawmills strictly for chipping. Or will it be the government having the right to issue mill licences or not to issue them? Could sawmills have a monopoly on the woodfibre? We're going to get to that in a minute.

We feel that there would be lack of flexibility to react to the market demands. What I mean by market demands is that when we went to chips in the mills they no longer had a large inventory of roundwood at their disposal. Today, if the mill goes on to hardwood craft, they run over to the hardwood pile and grab that wood. That's not there any more. They've got three chip piles—one's poplar, one's spruce and one's jack pine—and they can gobble those up very, very quickly.

What happens now is that in the bush and at the chip plants we are the ones who have to do the running around very quickly. If they want poplar kraft, we've got to move everything and go find it. We need that flexibility to react. They don't know what the markets are until a month ahead of time.

Controls imposed by the regulations of the mill licences subject us to possible loss of licence if we have substantial changes in volume or product type during the year. We will be penalized for trying to be more efficient

or meet the new market demands. Also, the minister would decide whether or not the business could be sold. If you have no licence, you have no sale for your company. That's always been the last resort of the businessman, that if worst comes to worst you can sell off your assets. Without a mill licence you'd be up a creek, I think.

In closing, I would suggest that the whole-tree chippers for chip plants be exempt from having to have a mill licence so long as the wood flow is charted by the customer with a central scale agreement with the MNR, since chipping is just another element in preparing the woodfibre for the mill process and making a finished product.

I urge you greatly to do what you can to help maintain the economic growth in the rural areas where forestry has always been a way of life for many years and not let larger companies monopolize the markets at hand. The pulp mills, being the mother of all markets, must maintain a diversified woodfibre supply in order to guarantee survival in our changing and competitive manufacturing world.

The mainstay—it's not an hour speech—is the sustainability of the forest and the social values of Bill 171. One thing that's started already is that just last year when Howard Hampton, the minister, announced the surplus of hardwood fibre in the northwest. When we saw the studies that the ministry had done, we were very disturbed to find out that the Black Sturgeon licence was included as surplus. I've operated there for 25 years and I've been to every corner of the limit. According to the volumes, they had 884,000 metres of excess fibre. We sure as hell haven't found it.

With that, I guess, with job creation, whether it be the election coming up or whatever, but—

Mr Brown: Oh, say it's not so.

Mr Harris: Well, say it's not so, but—

Mr Mammoliti: It's a long way away yet.

Mr Harris: Whatever. He had set people loose on what they call surplus fibre. This handout I've got here is just the beginning of what we see could happen with mill licensing. If they offer this sawmill operator the mill licence he's after, it's going to put hundreds of people out of work.

1050

If you go on to page 2 of your handout, this is already in the midst, so I presume this fellow already has his licence. He's started to put in equipment already. You see down at the bottom of the page, or in the middle of the page, under item number 1, it says, "The MNR has conditionally committed poplar and white birch volumes from 11 management units." The 11 different management units are from Sioux Lookout to White River. It takes in pretty well the whole northwest.

If you go down to item 2 there, towards the bottom, "Minister has committed 622,500 metres" of hardwood annually to this operation. All right? That's just hardwood. In order to commit 622,000 metres of hardwood, there has to be about a 30% recovery of softwoods in those stands. In essence, he's going to be committed to

about almost a million metres annually for a mill that hasn't started up yet.

Out of that, in the hardwood only, 187,000 metres is going to be used in the sawmill. This is what they're saying: It's going to be job creation and hardwood lumber. If you use your mathematics, there's a large amount of waste that's coming out of the 622,000 metres and there's only thing that can be done to it. That's chipped and fed somewhere. There's nowhere in the States that'll take it because we're too far away from any markets down there.

But by doing this, this operation is going to have complete control of the hardwood chip market in north-western Ontario, because even out of the 187,000 for sawlogs, about 30% of that is going to become chips; 70% will become lumber, if that's ideal.

Also, up on page 3, at the very top there, where a lot of our suppliers make their profit in their operation is in the plywood. That's a very highly specialized product, making plywood hockey stick handles and you name it, and it's a very high dollar. For instance, poplar pulp right now at our plant in the local area will go for roughly \$65 a cord or \$27.50 a metre, where plywood will go anywhere from \$90 to \$110. They'll go as far as Fort Frances to pick up plywood for \$160 a cord, just for the quality of it.

If this local sawmill operator gets this, he's going to supply 100% of the veneer for this mill. Again, all these jobs—this is just our area—these 270 families that we support will be wiped out. There are offers to bring tree length in from Sioux Lookout to White River and do all the sawing and merchandising here, which is a very economical way to do things, except we're very afraid of the leftovers. Three quarters of this guy's timber supply has to be chipped and the markets right now are captive, they're very full. Avenor can't handle any more. If this guy come on stream, what he's actually going to do is replace existing operations with a one-man show. This is why we're quite concerned with the mill licensing. It's just an example that's started already. They could put a lot of people out of work and we're hoping that will not happen.

If you go to the very back page, it'll tell you the crown management units, Nipigon and Thunder Bay and all the other management units that are under forest agreements right now with different companies, that the government has just committed 620,000 metres from. He's been in the area a long time. He's a very smart operator. He's a very large operator. He owns seven sawmills in the northwest. But the very thing we can't allow to happen is for somebody to monopolize the whole gamut. It'll put a lot of union men out of work. The natives are just starting to get into it now. They've got some very economical operations running and we've got meetings with them again tomorrow. They're going to start supplying us with a lot of fibre off their lands.

But one of the things that he has—on the third-last page—on licensing—and he's got this right now; this is one of the things that is a problem with the act—is a first right of refusal. A lot of our operators are just small guys; they might cut 2,000 cords a year. But this is

always hanging over their heads, where they can't sell their product where they want to because he's already got the first right of refusal on sawlogs.

We designed our chip plant, for instance, to take 16-foot because of the fact it's more efficient, less gaps, easier to handle, less slashing in the bush, less steps you're going through. It's cheaper all the way around. But because these jobbers are working on district cutting licences, DCLs, from the crown, the sawmills have the first right of refusal, so those logs have to go to that mill unless we can beat the mill's price. Then it just becomes a price war. You'll see under licensing he's also gone for first right of refusal on the poplar and white birch sawlogs. In essence, we won't be able to buy any more wood from any of the crown management units.

It's an example right there of the licensing that has taken place. Maybe they've jumped the gun on the act, I don't know, but that's our very big concern right now, the sustainability of the forest. I've worked on that limit for 25 years. If he says there's 884,000 metres of poplar there, I'd like to know where it is, because right now we're down to 40- and 50-year-old stands of harvesting, and that's strictly just to regenerate it back into a better work site. They come back naturally. It's just thick and it's not growing very fast and the budworms are into it. So we harvest it, we scarify it, we'll plant good, healthy trees back in there and then we'll have a good forest. But as I say, I'm very doubtful that this surplus hardwood is available. Short-term possibly, but that 622,000 metres is more than Avenor, MacBlo and Abitibi use annually.

The Acting Chair (Mr David Ramsay): Thank you very much, Mr Harris, for your presentation. There's just a minute left for each caucus, I suppose, to make a statement or a very short question, but there's just a minute each since you've taken up 27 minutes of your time. But it was a very good presentation.

Mr Bisson: I just want to say thank you very much for your presentation. I thought it was informative. We've heard a lot, especially in the northwest, about the whole question of chipping. I really question where in your presentation you're talking about, "We're chipping stands of timber that are 40 years old," from what I understand. I really wonder. The whole idea is that what we have to do for the industry is that we need to make sure that there's a sustainable flow of the wood to be able to support the investment and mills and the paper mills and all of that industry. I understand the predicament that you find yourself in with regard to chipping facilities, but I really wonder if that's the best end-use approach that we should be taking when it comes to the utilization of the forest.

I certainly would like to have a little bit more time. Maybe afterwards we can have a bit of a chat and get specifically into things, but I don't know—we've heard different things. We've heard some people talk to us about chippers, that nothing goes in bigger than four-inch; we've heard it going as high as 23-inch. If we're chipping logs that are 23 inches in size, that is not a good use of the fibres. I think what we need to do is have a policy that says we need to make sure that the sawmills are able to be supplied and the excess chips go over to the mills. But we'll talk about it later.

The Acting Chair: Mr Harris, I'm sorry, we won't have time. We just have a minute each. The committee just voted on another motion not allowing presenters more than 30 minutes, so I'll have to adhere to the committee's wishes. Mr Brown, one minute, please.

Mr Brown: You have raised, I think, an issue that we have been trying to grapple with for some time. That basically is, what process does the crown go through to determine surplus and then how do you allocate the surplus, if in fact there is one? We are told it will be by competitive bid. However, we are not told what criteria there are for the competitive bid. We find this to be a total mystery. We're glad you brought this to our attention and certainly we'll be looking at these licensing questions very carefully.

Mr Hodgson: Thank you for your presentation. I just have a follow-up to Mr Brown's, actually; it's related. There have been a number of announcements that have received a lot of press play on our trip through northern Ontario. That's all the jobs and the investment. We were in Fort Frances the other day and they were suggesting \$100 million. But the surplus hasn't been identified yet. Do you think it would have been wise to wait until you know about the surplus before you make the announcement?

Mr Harris: I think it's very wise, because somebody should do their homework.

Mr Bisson: The surplus has been identified.

Mr Hodgson: It hasn't been identified, Mr Bisson.

Mr Harris: I've talked to MNR personnel who were involved in doing the study, and they've all said that is not there; the hardwood surplus is not available.

The Acting Chair: Thank you, Mr Harris. We really enjoyed your presentation. It was very informative and we'll certainly be considering that in our deliberations.

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KIASHKE RIVER NATIVE DEVELOPMENT INC

Mr Tim Esquega: Good morning. My name is Tim Esquega, and I am the president of Kiashke River Native Development Inc. This company is based at Gull Bay, a native community on the west shore of Lake Nipigon, approximately 200 kilometres north of Thunder Bay. Since 1974, for 20 years, I have conducted harvesting operations, silviculture operations, in the Kiashke unit. This small company management unit, only 90 square kilometres in size, is located approximately 20 kilometres north of Gull Bay. The intent of the Kiashke unit is to provide both employment and economic opportunities for the residents of the community of Gull Bay.

We were a form of community forest long before the term "community forest" was used in the Ministry of Natural Resources. Our continued existence 20 years later is proof of our business success. The company is independent in that the timber harvest is not obligated to be sold to any particular sawmill or pulp mill. I have the freedom to sell woodfibre or other products to open markets. This flexibility has contributed at times to my business success, and at other times has caused anxious moments. It has been essential for me to understand market conditions, be aware of costs, product activity and

product quality. While ensuring that the company is a business success, I also have followed sound forest management practices and regulations set out in the legislation. The Kiashke management unit has been recognized by many groups as a model of good forestry management.

From 1974 until 1991, the company was labour-intensive, using men with power saws and cable skidders to harvest timber. During this time, the company sold roundwood to sawmills, pulp mills and veneer mills in the Thunder Bay area. In 1991-92, factors were affecting the success of the company. The labour-intensive operation was extremely costly due to the high WCB expense. The company has not kept up with the improved harvesting technology over the years. For the sake of keeping jobs for the people of Gull Bay, in order to produce a cost-efficient product to sell on the open market, changes have occurred in the harvesting operation.

Secondly, after discussions with wood purchasers in Thunder Bay, it became obvious that the most attractive product form would be wood chips. Not only was there a great opportunity to increase profits, but also the chance to secure a long-term commitment for sales of timber. I purchased a mobile full-tree chipper in the spring of 1992, which has assured the long-term business success of the company. The community of Gull Bay will continue to receive employment and economic benefits.

As a native person, I have been affected by provincial legislation, with impacts upon my lifestyle, particularly as related to hunting and fishing. Now as a businessman I believe I will be affected by the legislation proposed as Bill 171. Kiashke must perform all the forest management functions that large companies perform but with a much smaller timber volume base. Area charges since the recent amendment are very costly. The cost of preparing a forest management plan as a condition of the forest resource licence is expensive. The proposed penalty assessment structures would wipe out the financial resources of the company even for one mistake. There are no rewards for practising good forest management on a small company licence. There appears to be some incentive to remain as a small, independent businessman.

Also, as a mobile full-tree chipper owner, that Bill 171 requires for the forest resource proceedings a facilities licence for the field chipper is a serious concern. The committee has already heard much discussion about the subject. As an independent logging contractor, I have survived for 20 years selling timber harvested from Kiashke unit on the open market. This regulation could impact on my company's ability to succeed. I do not think the government should be directing where and how I sell timber produced on Kiashke unit. Based upon my experience and understanding of the local markets, I have chosen a harvesting system utilizing the latest technology that allows the company to succeed and continue to provide benefits to the community of Gull Bay.

I thank you for this opportunity to make this presentation.

I also have a feeling, a very strong feeling, getting into the mobile chipping business was to perfect a chip that the companies need. Now I hear that the sawmills have

a first priority on chip quality over our chipper. The thing is it seems to me that I spend a lot of money to perfect a chip to the open market. Now it comes to a point that I'm on the bottom of the totem pole on my chip quality, and the sawmill has the first priority on chips, and they're in the business of making lumber. We're in the business of making chips and lumber.

But these are the things that really concern me. In our community we've been talking about Indian self-government for many years. I think, you know, there's suppression with all policies that are being made upon us. We cannot survive under the conditions that are in front of us here. We are a very proud people. We don't want to live on welfare. We want to succeed in our logging operations, but it seems very, very difficult to just maintain a logging operation in our area with all these policies that are being changed. Maybe the logging operation down east is totally different from the northern areas. We seem to be used as the eastern part of Ontario, to try to use that same system in the northern part, and we're not sawmill owners. We're just barely surviving. I haven't finished paying for my machinery.

The one-year thing is another thing that's really bothering us. There's people buying chip trailers and they can't go into a bank and say, "We want to get into hauling chips" for our company, because we've got only a one-year licence. We don't have any long-term goal that we used to use, let's say around five years: We'll be in operation five years. Today we don't know if we're going to be in operation next year. The financing companies don't look at you if you've got a one-year. If you're buying a half-million dollar machine, they won't even look at you or even talk to you if you've only got a one-year commitment on logging.

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The thing with chip marketing—I thought the government would be able to look at the underdog and try to help out the community people, the grass-roots people who are working under our companies, to kind of help out the smaller guys. Instead, they're interfering with our business entrepreneurship, to be able to exercise our knowhow in our own business. I've been logging all my life pretty well and I want to continue logging. I've worked hard to have something for my family. When I retire, I'd like to have my company turned over to my family, but that's out of the question now with the regulations that they have.

I've worked for nothing all my life, and it's not fair. I've worked to provide employment for my community people, for my family, for them to take over, to continue doing what I've been doing. But that's not the case with the regulations that are in front of me here. So it's a big blow to native people. I have, as an individual, wanted to employ or even start other operations in other bands and help them to get going in the logging business, but it looks very bleak today of ever starting another native operation anywhere up in the northern country.

Those are the things I wanted to bring out.

The Acting Chair: Thank you very much, Mr Esquega. Does the other person at the table want to make a presentation?

Mr Geoff Pattysen: I'm here to provide support for Tim.

The Acting Chair: Thank you very much. Maybe just for the record, you could identify yourself today.

Mr Pattysen: My name is Geoff Pattysen and I do forestry work for both Kiashke and the other company that Tim owns.

The Acting Chair: Thanks, Mr Pattysen. That will give us about 17 minutes altogether, so we would start with Mr Brown.

Mr Brown: Meegwetch. Thank you very much for this presentation. I think it's very important from a number of standpoints: first from the standpoint of your communities that you represent, and secondly, we're back to that issue of chippers and the licensing thereof.

I just need some things clarified. I'm getting confused on this issue. If your chipper, same machine, was sitting at the Avenor mill, in their yard, would it require a licence, in your view?

Mr Pattysen: If Tim is the individual owner of that particular piece of machinery, under our understanding of the proposed change to the legislation, yes, he would have to have his own particular licence because he is the individual owner of that piece of equipment.

Mr Brown: I guess we shouldn't speak specifically, but if a private individual or private company had leased on a long-term basis the machine to Avenor and it was sitting in Avenor's yard, would it require a licence, in your view?

Mr Pattysen: I would suspect that it would be covered under a mill licence issued to Avenor.

Mr Brown: That's what I suspect, too. If Avenor owned the chipper and it had it in the bush, rather than in its own yard, would it therefore require a licence under this act, in your view?

Mr Pattysen: I think that is a grey area. That is not clear.

Mr Brown: I'm having real difficulty. If the issue from the ministry's standpoint is best end use of the wood, if that's what this is about, then that can be described in the various licences that are given out. Wouldn't you agree?

Mr Pattysen: I would think so, yes. It would be covered in the forest resource licence rather than in the processing facility licence.

Mr Brown: So best end use couldn't be an issue, because that would be described in the licence that was given under the forest resource licence.

Mr Pattysen: That possibility would exist, yes.

Mr Brown: Then if it isn't about end use, best end use, I'm having difficulty here seeing—this is obviously a very intermediary step. It is not a manufactured product; it is just an intermediary step to take the wood somewhere. Why the licences are going to be required of a private individual or a private company, where if it's the same machine owned by the same person but leased to the finished product company, Avenor in this case, sitting in their yard wouldn't require the licence—I'm as confused as you are about this particular regulation, or

definition, I guess. I don't see how it all adds up. I don't know. I guess I'm sorely as confused as you are at this point about why this is being put. Have you any idea what the reason for this might be?

Mr Pattysen: First of all, I would suspect that your confusion is also similar to all the other people who have been up here making the presentation that they are confused and that's why they're here making these presentations, hoping for some type of clarification. Just a comment on the best end use: How do you determine best end use? Is it simply the particular product that can be made out of it? In Mr Esquega's case he is selling his fibre on the open market. His best end use is that which will provide the greatest profit margin, but that may not fit other particular situations.

Mr Brown: I understand and I'm wrestling with that issue too. I understand what you're saying. The first part just confuses me all to heck.

Mr Hodgson: Thank you for your presentation. So you feel the passing of Bill 171 will force you out of business the way it's presently written?

Mr Esquega: I feel that way. It's very unpredictable. I don't know what's coming up and I don't know how to—changes scare the hell out of me, and the idea of all the suppressions we're getting at our community level. It's one suppression after another, you know, and we've got to have a licence for everything, what we do and what we used to do as aboriginal people. The way of our life is suppressed with policies that we have to have a licence to get everything now. We've got to have a licence to hunt. We got to go to a course for getting a licence for a shotgun or something like that. We're suppressed with all kinds of different policies, and we just exist in our communities now and there's nothing we can do. We cannot hunt without a licence. We cannot drive without a licence. You cannot go hunting without a licence. You cannot get bullets for your gun without a licence. We're suppressed to all kinds of different policies. We've got to go to a trapper's course to go trapping, and we've been trapping all our lives. So these are the kind of things that I feel about this change here.

Mr Hodgson: Yes, I think there are a lot of us that are tired of that and want change. In the interests of brevity, I'll turn my time over to the other party. Thank you for your presentation and bringing us your concerns.

Mr Bisson: Thank you very much. I appreciate your presentation. I detect in your presentation what you were alluding to is that there's a whole sort of notion of uncertainty in regard to how you view the bill.

I'd like to just clarify a couple of things because I think for the record they need to be straightened out a bit. First of all, when we talk about licences, I don't think most people are aware, but a paper mill has a licence that's issued every year and renewed every year. That's been the practice in the province and has been the practice in the country for years, that licences are issued every year according to compliance and making sure they live up to the conditions set out when they built their mill. What's intended in the legislation is not so much to encumber, but more to reflect what really is the common practice within the province.

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Anyway, the issue that people have brought to this committee is, should we be licensing mobile equipment? I think that's a separate issue and that's something the committee is prepared to look at. But just to put it clearer, Kimberly-Clark and Malette lumber and Abitibi-Price in Iroquois Falls, all of them have licences that are for one year and renewed. Banks are lending money and have been lending money for these institutions in the hundreds of millions of dollars for a long time on one-year licences, so I think we need to put that clear.

The other thing is that you talked about the penalties. To clarify the question of penalties, you don't jump from an offence within the Crown Timber Act presently or under the new sustainable forestry act, directly from, "You have an offence," to, "Do you know that you have an infraction?" and you jump automatically to an administrative penalty or an offence under section 61 of the act.

The way the act is written, it says, first of all, that we recognize within government—I think all legislators from all political parties and the Ministry of Natural Resources and the public, to a certain extent—recognize that the majority of operators in the bush have been doing a damned good job over a period of years. We've been learning. It's been an evolving process. We've learned how to better harvest, we've learned how to better manage and we've learned how to better reforest our forests and take care of them over the years; that because of legislation that was started under the Tories some years ago, carried on—well, tried to get kicked off with the Liberals. They didn't want to do it, so we're here with this legislation today.

Industry and operators have been learning how to do their jobs a lot better, and we're sort of in an evolving process about just how good and just how expensive it gets as well, because the more we learn and the better we do the job, the more it costs us. If you look at the cost of reforestation 30 years ago, it wasn't very expensive compared to what it is today, in 1994. I'm sure that in 2010 it's going to cost more money, based on the fact that we learn how to do it better and we start to take into account other things, and that's what this act is trying to do.

So the way the offences go is that if somebody does an infraction, the first thing that is recognized is that sometimes those things happen and it's not by choice. There's an error that's made, you start cutting a little bit outside of where you should be or you don't cross a stream in the right way, and you would be asked to repair the damage.

Only in cases where people say, "No, I refuse to do what the regulations set out to do," then you may end up into an administrative penalty. But only in cases where there's a flagrant abuse of somebody who says, "No way, I'm not listening to the bill. I'm going to go out and I'm going to harvest in an unsustainable way. I'm going to knowingly go out and damage the forest," only there you would get into offences under section 61 of the act. So it's not intended to go directly to that. I guess what I would suggest from what I hear through people making presentations is maybe we need to clarify how you go

from section 53 to 54 to 61 a little bit more clearly.

Now we get to the questions. In regard to preparing their management plans, the forest that you cut on now, are you cutting on an order-in-council licence?

Mr Pattyson: Yes.

Mr Bisson: So you have an order in council. So you're the only operators on that order-in-council licence. All right.

What you're saying is that now, under this act, we're going to have to prepare a forest management plan that looks at the ecosystem and that's going to cost us a little bit more money and we're afraid of what the cost of that is going to be, basically. Is that what you're sort of saying?

Mr Pattyson: I think it was a comparison relative to what the large multinationals, if you want to call Avenor, Abitibi-Price—what their capabilities are, what their resources are with a fairly substantial volume. Mr Esquega's companies have to meet those same requirements with a much smaller volume base to work on.

Mr Bisson: Just for you to know, there is the opportunity within the legislation that if you don't have the expertise within your organization to be able to prepare forest management plans, the ministry or others can act in a consultative method, or you can ask that the ministry does that for you, at which point you would be probably charged back, if you have an order in council, the cost of doing that. But the cost of the work being done would be drawn from the trust fund.

I guess what the bill does is that it puts a certainty that the money is there to do the work, first of all, to prepare the land and then to go out and do the actual work in regard to reforestation. Have I still got a few minutes?

The Acting Chair: Yes, you do.

Mr Bisson: The thing we have to look at as a committee is, how do we deal with order-in-council licences? Because, clearly, people who presently have FMAs today in orders in council are in a bit of a different class, and I guess we need to look at that a little bit more clearly.

The other thing is what I really want to get, because your presentation and the other presentation touched the same thing, and that's the question of best end use. Where do you get the notion that all of a sudden you're going to be told that you have to sell your lumber to a certain mill? Because there's nothing in the legislation that says that.

Mr Pattyson: The requirements of the forest resource facility licence are for a business plan and a wood supply analysis to occur.

Mr Bisson: But that's an economic factor. If I go out and borrow money in order to set up a forest resource plant, I have to have somebody to sell my product to.

Mr Pattyson: Okay. Mr Esquega's situation is he has no affiliation whatsoever to any particular company, so he's been selling his wood on the open market now for 20 years. He has made those same judgements that you are now saying are basically required. Why does it have to be duplicated?

Mr Bisson: What has to be duplicated?

Mr Pattyson: This wood supply analysis and this preparation of a business plan.

Mr Bisson: But the comment that you were making in your presentation and that I think the former gentleman was making is that you would be told where you can sell your product, to which mill. Is that what you're saying?

Mr Pattyson: That was based on information and discussions with MNR officials, who have basically said that the overall intent of making this licensing structure is to manage and control the direction of wood flow.

Mr Bisson: No, it's more to manage how we approach the harvesting practices. There's another exercise that's happened within the ministry for some time, talking about best end use. I'm wondering if what's happening is that people are looking at the best-end-use discussion and lumping it in with 171. Maybe we should be doing that. I heard a presentation here the other day where somebody was saying they were chipping 23-inch sawlogs.

Mr Pattyson: I made that statement.

Mr Bisson: Was it you who made that?

Mr Pattyson: Yes.

Mr Bisson: I'll tell you, I've got a whole bunch of sawmills in my area that would go absolutely nuts with that.

Mr Pattyson: That comes to my comment that I made to Mr Brown as far as best end use. If that contractor's best end use is greater profits, in that particular situation the best end use was to make it into chips, because that was where the greatest profit margin lay.

Mr Bisson: So then that would be developing a sustainable policy based on the economics. Is that necessarily what's the best for the forest, though, and for the socioeconomic impact on communities?

Mr Pattyson: The forest resources plans will dictate what is the best for the forest. The market will determine what is best for the markets that are produced from the forest.

Mr Bisson: Which is another discussion outside of this bill with regard to best end use. I'm out of Timmins, and the argument we all have is that, for an example, there are not enough sawlogs to go around at times, especially for, as you say, the smaller, independent operators who have smaller mills and who don't have tenure to an FMA. Where do they get their wood? The only way they can rely on that is through the right of first refusal on crown units or excess wood they may be able to get through this legislation on an FMA.

Those operators come to me and say, "Jeez, Gilles, they're chipping logs that are 23 inches in diameter," and I'm saying, "No, it can't be." Then I come to Thunder Bay and find out it is so. Maybe we should be talking about best end use.

Mr Pattyson: Mr Esquega alluded to the differences between northeastern Ontario and northwestern Ontario. I think your situation, where you have multiple individual owners in northeastern Ontario, it would be a very competitive market situation and obviously that 23-inch tree is going to be very valuable to those particular

sawmills. However, in northwestern Ontario it's basically a monopoly. The price that is paid for sawlogs generated in the woods is restrictive.

The Acting Chair: Thank you very much, and thank you, Mr Bisson. I suspect you're going to have further opportunity to engage with these presenters as we call up the next company. It happens to be the very same presenters who are going to make representation on behalf of Niigaani Enterprises Inc.

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NIIGAANI ENTERPRISES INC

The Acting Chair: Mr Esquega, you're noted here as the presenter, and you can proceed any time you wish.

Mr Esquega: I want to thank the committee for the opportunity to make this additional presentation. Kiashke is a separate entity to its own licence. The Niigaani Enterprises, of which I am the owner, operates on a third-party licence with Avenor, Abitibi and the prime licensee. These areas are immediately adjacent to Kiashke management unit.

Niigaani Enterprises Inc has been in existence since the mid-1980s, when both Avenor and Abitibi recognized that a successful operation was already occurring in the vicinity of Gull Bay and it would be mutually beneficial for the prime licensee of the community of Gull Bay to enter a third-party agreement.

Both of these agreement areas are in a forest management agreement forest, so Niigaani not only harvests timber but is responsible for silviculture, such as site preparation and tree planting. Niigaani, like Kiashke, is committed to overall good forest management practices.

There is a close relationship between Kiashke and Niigaani in both harvesting and silviculture operations, shared equipment and management. This shared agreement allows both companies to produce the cost-effective product that neither company could do by itself.

The success of each company and the ability to provide benefits to the community of Gull Bay are all closely related. Niigaani Enterprises Inc obviously is also concerned with any part of Bill 171 that will impact upon the company's ability to be successful.

Niigaani also has a concern dealing with the forest resources proceeding facility licence. A full-tree chipper increases utilization of fibre on a yield-per-square-hectare basis, provides a fibre product with greater profit margin than a roundwood product form, a superior product of the activity for the sale to pulp mills.

The marketplace has allowed Niigaani and Kiashke to be successful. No further controls should be placed upon the sale of timber products derived from the harvesting operations.

That's all. Thank you.

The Acting Chair: Thank you very much, Mr Esquega. We will then start with the Progressive Conservative caucus, and I'll recognize Mr Carr.

Mr Carr: Thank you very much for your presentation. As you know, as we get a little closer, there is going to be some clause-by-clause. When people get a chance to really go through some of the details, we're hoping

that they will present us with an update, because a lot of people haven't had a chance to go through it. Hopefully, you'll be able to do that as well. I know it's difficult to follow what's going on in Toronto with the bill, and with your daily operation it's tough to spend the time, but it is going to affect you a great deal, so hopefully you would do that.

But I've asked this question to numerous people as we've gone right across this province. We heard from some of the big players, Avenor and Spruce Falls Inc, that said to me they suggest I vote against this bill in its present form. I want to tell you that what I have done when we met with the minister up in his riding of Fort Frances is I took the conclusion page from a couple of the presentations and said, "This bill is bad; don't pass it," and I told him exactly who the companies were.

The reason I did that is the staff—and people from the ministry are very nice people; we travel together, but I don't know them and I don't how much the minister is hearing about this bill. I want to tell you that I personally handed it to him and told him that the two largest employers—I guess the other one was E.B. Eddy; I handed him their presentation—said, "Don't pass this bill."

I did that not to be political in front of everybody and to make a big show of it, but I wanted him to know, because I don't know what the staff is telling him. He needs to know very clearly that in this case the three largest employers in those communities said, "This bill's bad; don't pass it."

I would have included some of the smaller players as well, but knowing how busy he is, I didn't know if he'd get a chance to read it. I underlined it. They were very powerful presentations. They said, "The bill's bad; there are major flaws in it; don't pass it."

So I want you to know that, that the minister, who is not only a minister but also comes from a community that's highly dependent on it—and boys, you gave us a good tour—knows very clearly that the major players in this province do not like his bill. I want you to know that because often what goes on with Hansard and so on, sometimes the minister doesn't know. This won't slip through the crack. As a matter of fact, the conclusions were so small, very short and sweet and to the point, that he actually read them in front of me. So I want you to know that: The minister knows very clearly that the people in this province, the major players, do not like this bill.

What he does with that, I told him very clearly, is up to him, and how they're going to make the amendments and what changes they're going to make is going to be very difficult. But I can assure you if major changes are not made, I won't be voting for this bill. The problem is, of course, that I'm only one of 129 and have a very small voice in all this. But I want your assessment of what you would like to tell the minister before he proceeds with clause-by-clause.

Again, what I will attempt to do is give that to him. I may not see him until October 31 now, but I certainly would put together in a letter form some of the comments. If you could sort of, very short and sweet, tell the

minister something, as this will affect you a great deal, what would you like to tell him?

Mr Esquega: The thing I feel about this whole rigmarole here—I don't know, everybody seems to be confused of what we're talking about. It's a high-profile type of thing and I'm just a simple person. I don't quite understand what the changes are, how it's going to impact on our operation. Those are the scary things, and some of the people who are talking here are not quite sure of what they're talking about. They're confused, I'm confused, and when it comes to that point, it's scary as hell.

The changes that are coming on in the future are going to have a very strong impact. Our operation has 25 or 30 people working 10 months a year. That's in jeopardy and these are the things that I'm concerned about. What protection do we have over bigger companies? The bigger companies are listened to; the smaller guys are pushed away. Those are the things that scare the hell out of me.

If I was talking to the minister, these are the things I'd tell him: the concerns of our future, the concerns of the people who are working, the families that our company supports in the future, within the 20 years that we've been in operation. Those are the ones that I feel responsible for. They've got families, they've got children. Those are the things that are scary.

I can't seem to pinpoint exactly what I would tell him directly, but those are the feelings. It's an overall kind of scary feeling that I have in my own country. I feel very suppressed in my own country and I can't seem to grow. I am a proud man. I want to be a success in my livelihood. I don't want to be—what do you call it?—a burden to my country. I want to be part of the success of my country, and I think I've got a right, a full right as an individual, to have that kind of feeling. There's a lot of people out there who have tried and been suppressed by other policies that have a stranglehold on people to succeed in their own country.

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These are the things that really bother the hell out of me. It's my country; I'm an aboriginal person. I'm being controlled to a point that I cannot move. I'm suppressed and, you know, we can't live on welfare. We've got to be able to go out there and exercise being able to be self-governing in some way or some fashion. But what all these other policies—that can really have a stranglehold on our own development as native people. I want to speak from the heart. I want to talk about my way of—we've operated, we did everything within the management way of doing things in our operation. We plant over 700,000 trees yearly. It's a big spinoff of people that are involved in our operation.

I can't seem to pinpoint the question I would tell the minister, but it's a whole lot of different things and it would take not only a question, but it would take a book, I guess, to explain everything about how—

Mr Carr: Thank you very much. Just listening to you, I appreciate you coming in. It's people like you that I think have built this great province, and continued luck and success.

Mr Wood: Thank you very much for coming forward with your presentation under two different companies and your concern about Bill 171. I just want to go back a little bit. I understand that you're operating on crown land, so to a certain degree—and supplying to Avenor?

Mr Esquega: Yes.

Mr Wood: And your business relationship is with Avenor to supply basically chips to their operation in Thunder Bay or Dryden?

Mr Esquega: Yes.

Mr Wood: Okay.

Mr Esquega: I used to sell logs to all different companies, and log material.

Mr Wood: Okay.

Mr Esquega: With Abitibi, Northern Wood.

Mr Wood: Okay. There's no doubt in anybody's mind that the technology that is there—having moved to Kapuskasing in 1959 and seen the horse operations in the woods going to small tractors, to skidders, to sawmills being shut down, modern sawmills being built, the chip and saw operations and now in the northwest to more chipping operations.

I've spent most of my life before being elected in the forestry business at Spruce Falls, and there were some comments, I guess it was from one of the previous presenters, on the quality of chips versus chipping whole logs compared to chip and saw operations where you sell one by twos, one by threes, one by fives, one by sixes. I'm well aware, depending on which operation and who you talk to—if you talk to Spruce Falls you get one story from the chemical engineers who are responsible for the finished product to other companies and there's no doubt that there's some concern. But what I want to know is, we heard a presenter before saying he's representing 118 different independent logging operations and he doesn't see Bill 171 affecting them as far as cost, as far as manpower—he doesn't see any effect on it whatsoever. Yet we're hearing now that there is a concern, security of employment later come down the road.

I guess it's not clear in my mind—you have a business relationship with Avenor, which used to be Great Lakes Paper before—how the employment is going to affect—they're still going to want to produce paper on their paper machines and they're going to need the chips. They're going to need the roundwood.

Best end use: Some people are telling me that best end use—we talked to Boise Cascade, which is now Rainy River Forest Products, saying their best end use is putting four-foot logs into the groundwood mill to produce a filler for the sheet. Other people are saying best end use is chipping the whole log.

I'm well aware of the operation from the ground right to the finished product going out but I fail to understand where you're saying that the fear is there, because other people are not saying that.

Mr Esquega: Well, the fear I feel is financing heavy equipment and hoping you'll be in operation the following year to be able to pay for that machine or go bankrupt. Those are the unknown fears. Everybody is afraid of

change. You don't know what it's going to turn out to be and once it's law there's no way you can change that. That is the scary part. It becomes law and that's the way the country's going to go, whether I like it or not.

It's going to be a big impact on individual entrepreneurs who are trying to create employment for people and their communities. Community forests is what we're talking about. We're not talking about transient people who are coming by. This is our area and I think we should be the ones to log our area. Those are the kind of things.

Mr Wood: There's no doubt that different companies have different methods of operation. Like Spruce Falls where I was working, they spend millions and millions and millions of dollars on equipment and people work by the hour to supply wood to their sawmill that they're building right now and going to produce, or to the TMP plant and in turn, into newsprint. I understand Great Lakes, which used to spend millions and millions of dollars on the large equipment, are now expecting individual contractors to buy their own equipment even if it's \$750,000, to do the operation that was being done before.

There is a change, there's no doubt about that. They were financing the operation; now they're expecting the individuals to finance their own operations.

Mr Pattison: The cost aspect of it, once again, and Mr Esquega's talked about the fear aspect of it: This definition was not in the previous legislation under the old Crown Timber Act, or it was there in a much different form. The intent and the application in the change of the definition is where there is the potential to have additional costs imposed and there is the potential for—and it's been stated by MNR officials—that the intent is to regulate the market. I guess that is where the confusion lies and that's where the clarification is required.

Mr Wood: The intent is to protect jobs, to protect communities and create jobs out there—as the announcement was just made, to create up to 1,500 jobs with three new operations that are out there, with the resources that the province of Ontario has there. This is the intention: to protect jobs that are there, create new jobs and protect the communities, and also make sure we have a forest for the next 80 to 90 years that's going to be continually reproducing so that we eliminate the fears you people are bringing forward here today. That's the intent of the legislation.

Now, what amendments do we have to put in there to make sure we achieve that goal? This is the reason for the public hearings.

Mr Brown: I think Mr Wood said, "The answer is we want to regulate the market," to be short. I think that is maybe a growing concern. I think MPPs are at best just generalists; we know a little bit about a lot of things but maybe not very much about specific things. As we started to go through this exercise, you have to understand that from the time the bill was presented to the Legislature until the time it got second reading was two weeks. There was hardly any time given for interest groups of any kind to let legislators know about what they thought. That's fine. As the Liberal critic, that was okay because we're

going to go through these public hearings and people are going to come before us and be able to express their concerns and certainly you're having that opportunity today.

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In reflecting upon it, we have something like—I haven't counted them, but there's probably 1,000 pages in those manuals. There are regulations. There's a bill with, I don't know, 70 or 80 sections in it and I'm trying in my own mind—first I thought it was my problem. I didn't understand all of this. I'm kind of starting to wonder whether I should be able to understand it and, therefore, if it's the right way to approach the entire problem.

Perhaps there's another way. You have expressed to us your frustration with mounting government regulatory burden in every field of endeavour. If there's a problem, we fix it. We fix it even if there isn't a problem. As the burden of regulatory process impacts at the ground level, I think people are starting to feel their freedom quite diminished. I think the case you're making here is that markets determine many of the issues that we're trying to deal with today.

My question is: As the government has been unable to define "sustainability," define "ecosystem," how is it that we would be able to put those very promising concepts as the benchmark and then place the regulations in the manuals beside those benchmarks and say, "Yeah, this is sustainable forestry"?

Mr Pattyson: We don't agree with your question.

Mr Wood: We've defined sustainability, we just want to see if everybody agrees with it.

Mr Brown: Well, Mr Wood, and I'm just thinking out loud; this is certainly not a position, it's just kind of rambling thought and we seem to have a bit of time to do that today, would it not have been a far better way to say, "This is what sustainable forests are and we'll put a stamp on that product if it comes from a sustainable forest and let you decide how to deal with the actual nuts and bolts of the forest, knowing that your product couldn't be certified if you couldn't meet an independent audit of the operations?"

Mr Pattyson: To a degree, I guess that's some of the results that came out of the class EA for timber management and I think there are obviously some linkages being made with that four-and-a-half-year process. I think, correctly or incorrectly, that a lot of the regulations and so forth that are in this particular bill are simply saying: "Well, we've gone through basically that process for four and a half years. If we link it closely enough, then that should be sufficient."

Mr Brown: But the EA is law. The cabinet didn't appeal the EA. That's the law of the land. That's how it's got to be. That's a benchmark in and of itself, I think, although it just dealt with strictly timber management rather than forest management. The benchmark is there because the EA has said that this is what's acceptable.

I guess what I'm saying, rather than a lot of regulation, a lot of manuals to say, "This is how you're going to do it," rather than all that kind of stuff, have an independent

audit come in, establish on a regular basis that you're actually regenerating the forest, because I think that's essentially what this bill is about. And if that's the case, fine; if not, well, you'll have to fix it. The mechanisms through the trusts, penalties and what not are there, but rather than having somebody chase you around all the time saying, "You can't do this, you can't do that, you can't have that chipper there, you've got to have it over here, blah, blah, blah"—

Mr Pattyson: I think there should be simply some basic, broad, general outline and the interference should be kept to a minimum.

Mr Brown: Because really, what society wants to know is that our forests are being taken care of for both the good of the forest and the good of the ecosystem and also the good of the workers and the communities. It seems to me the market forces, as you mentioned, are going to determine on the one side what a lot of those answers are going to be. We can't be like the Luddites in industrial England who went around breaking the machines because they thought they would threaten their jobs, because what threatens your jobs is not moving with the technology of the day.

The Acting Chair: Thank you very much, presenters. You've given us much to consider and we'll be doing that in the next few weeks.

JACK STOKES

The Acting Chair: I call Mr Jack Stokes to come forward. As everybody knows, Mr Stokes is an ex-MPP who's a legend at Queen's Park. We see his portrait up on the wall still, of course, because he distinguished himself as a Speaker, serving the Legislative Assembly of Ontario for many years, while he was also an MPP. Mr Stokes, we welcome you to this committee.

Mr Jack Stokes: Thank you very much, Mr Chairman. At the outset, I would like to particularly thank Franco for arranging time for me to make a presentation. I was originally scheduled for Fort Frances and then they changed it to Thunder Bay on Monday, I believe it was, and here I am today, after three hours of going through road construction between my home town of Schreiber—

Mr Wood: Jobs Ontario; all those jobs we created.

Mr Brown: The election's coming, Jack.

Mr Stokes: You wish it was tomorrow, didn't you? It's so nice to see people like Pat and Franco, because I always said when I was down there, it was people like them who kept the Legislature moving. We, as members, always thought that it was us, but on closer scrutiny, you know that it's people like them who are the salt of the earth and it's so nice to see them again.

Over the years, dating back to 1948, we had the Kennedy report, the Brodie report, the Ontario Economic Council report, the Armson report, the Baskerville report, the Reed and Associates report, the Rosehart report, the old-growth forest report, the Hearnden report and many, many others. Some were never made public or saw the light of day for obvious reasons. All dealt with some aspect of forestry, proper husbandry, regeneration, inventory and socioeconomic impact. All, without exception, have advocated the expenditure of more funds

for regeneration, greater and more extensive and intensive management techniques to ensure sustainability.

Ontario has a land area of 89 million hectares, of which 56.6 million is considered productive forest land: 35 million is boreal forest, some nine million is boreal barrens and some 12 million is temperate mixed wood-hardwood stands. More than 90% of the productive forest land area is publicly owned and the responsibility of the Ontario government, specifically the Ministry of Natural Resources. Seventy-five per cent of all manufacturing activity in northwestern Ontario is directly related to the forest industry and well over 50% of all employment which is forestry related is in southern Ontario. It is obvious that if we ignore the importance of forestry to Ontario and Canada, we do so at our own peril.

For this new initiative, Bill 171, to reach its intended goal, it requires a total commitment by this government, you as legislators, industry, labour and academia as well as all residents of northern Ontario. This bill and proposed regulations are predicated on the development and use of an information manual, an operations and silvicultural manual, a management plan, a scaling manual and of course the regulations manual itself. For this legislation to have the desired effect requires a change from just timber management to ecosystem management planning and biodiversity. This indeed will be an awesome task of balancing timber, wildlife, wilderness and tourism values and preservation of old-growth forests.

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Another major challenge will be the need to very quickly update inventories to ensure that fibre now being committed to new strandboard and speciality products mills is not at the expense of long-established operations.

All of these new approaches are being planned at a time when operating budgets within the Ministry of Natural Resources over the past two years have been cut by as much as 50% in some MNR district offices.

It remains to be seen whether or not these trust funds that are to be set up will be dedicated in total to renewal and sustainability and adequate funding for additional ministry staff to implement the dictates of this new legislation. Additional funding will be essential for the establishment of audit teams, markers and scalers and data retrieval systems, along with the consultative process involved in setting up planning and citizens' committees.

It is disturbing to learn that depletion, renewal and tending data is not available in the FRI database. It will be interesting to see what the promised annual report of past forest operations will reveal in terms of depletion, renewal and inventory, which are so critical to the stated objectives of sustainability and a holistic approach to ecosystem management.

The draft regulations will include socioeconomic objectives for communities, both native and non-native, and resource industry sustainability. This is an approach which I heartily endorse, but I would ask this committee and the ministry to review the effect or the impact that the concentration of timber licences or volume agreements in the hands of large operators could have on the economic wellbeing of small operators and employment

opportunities in small resource-based communities.

It's my understanding that in your earlier hearings, you've had some representations in that regard. I think you should take a really good look at it. If you look at a map in any district office in northern Ontario and you look at the amount of forest land and the volumes of timber of a variety of species that have been dedicated to one particular operator, you can understand the concerns of many of the presenters here, including Sturgeon Timber, including Tim Esquega from Gull Bay. I think their concerns are well founded and I share those concerns.

Another aspect of timber harvesting that is a source of trouble and concern to independent loggers is scaling methods and in paying them for the timber they cut. MNR has a direct and understandable interest in ensuring the accuracy of weight scaling or domestic scaling done by the mills. Generally, they accept the bills of lading provided by industry, with periodic check scaling done by the ministry.

I am advised that the figures used for purposes of collecting stumpage fees by the province can and do vary by as much as 25% to 30% from what the logger receives after the cull factor is taken into account. The ministry says it is not its concern but is strictly within the domain of the buyer and the cutter. This is a source of great anxiety which has caused many small logging companies to declare bankruptcy and a total loss of their life's work. Under this legislation, this is likely to continue unless you people can come up with something that will intervene and make sure that all the players in the forest industry are given a fair shake.

I think it is accurate to say that all stakeholders in the field of resource management feel very strongly that a new approach to land, timber, wildlife, fish and wilderness management is long overdue. Now, we all know that the act that Bill 171 replaces was promulgated 42 years ago, and anybody who says that a new approach to the way we manage not only our timber values but our total ecosystem values is not needed is just not being realistic.

This is not a perfect bill, but a major amendment or a replacement of the Crown Timber Act is obviously long overdue. Anybody who says otherwise, rather than being a part of the solution is a part of the problem. They now feel and realize that our traditional way of life in the past in this part of Ontario depends to a large extent on our collective ability to plan and manage and use and share these resources for the perpetual benefit of this and future generations.

Multiple use has been used as a description for proper sharing of resources for the benefit of society within this region and for those who find an attraction to it from outside. Many people have come to accept the user-pay principle as a way of protecting all of the values that are spoken of in Bill 171 and they also demand results to assure them that these assets that are seldom found anywhere else will be there in perpetuity for all concerned. It follows then that all the audiences that have expressed and will continue to express an interest in and concern for adequate and relevant resource management must be given a role and a collective responsibility and

a forum for their views and input into the lifeline of life as we perceive it in this part of the province.

In this bill, I see the opportunity for all stakeholders to buy into the process. If you as legislators present them with legislation that will enable them to continue to enjoy a high level of employment, economic stability and a way of life second to none anywhere in the world, you will have done a service to society that will do you proud and will long be remembered.

It's unfortunate, and this is the nature of the beast, that this bill is so far-reaching, so all-encompassing that you can't do justice to it in the time that's allocated. I was told that I had 15 minutes. I know that members, legislators, are given to verbosity, but this is one subject that has been near and dear to my heart for the past 30 years.

What I have presented you with today really doesn't do justice to the entire process but, given the constraints of time, I'm sure that a lot of the other presenters will have covered most of the things you will want to hear and need to hear in order to come up with either Bill 171 in its present or an amended form, that will accomplish at least the majority of the things that people in this part of the province have aspired to in the past and want to look forward to: a way of managing what is the lifeline of this part of the province for the benefit of all concerned.

I want to apologize that I don't have the facilities for duplicating material that you people have access to down there, but I do have some for Hansard. I would have had more, but my paper crumpled when I got past seven copies, so I gave it up. There are some copies of it there if you want to refer to them, but if there are any questions, I'll attempt to answer them.

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The Acting Chair: Mr Stokes, you are scheduled for a 30-minute time slot and you've just used a little more than 10 minutes, so if you do wish to continue or leave the rest of your time for questioning, that's up to you, however you wish to use your 30 minutes.

Mr Stokes: Well, I tend to ramble when I don't speak from a text. Rather than spend more time in making a more in-depth presentation, I would prefer to respond to questions from the members of the committee, if that's okay.

The Acting Chair: Fine. As you wish. So that'll leave about six minutes for each caucus then, and we'll start with the parliamentary assistant, Mr Wood.

Mr Wood: Thank you very much, Jack, for coming forward and making the presentation. We've had discussions over the years on forestry. You can comment, or you don't have to if you don't want to, but the question I would have out there is that the forest companies, whether it be the large sawmills, pulp mills, paper mills, whatever—you went back to 1948 when the government, the companies and the MNR had been doing all kinds of studies.

I've met with a large number of the major stakeholders and one of the comments they make to me, either at the committee or in person outside of the committee, is that Bill 171 is moving too quickly. It's moving too quickly

for the companies. They can't absorb everything that is there. In your presentation, the way I take it, you're saying that since 1948 we're moving to the point where we are today with Bill 171 and people should have been prepared for it.

Mr Stokes: I used to spend half of my time just researching all of these reports and seeking out people in the industry, in civic government, in labour and saying: "This is what so-and-so is saying. What say you?" We have played around with the Crown Timber Act for well over 40 years, and for anybody to suggest that a Ministry of Natural Resources of whatever political stripe, however it's motivated, is moving too quickly—I'm not saying this is perfect, but anybody suggesting that it isn't time for a change, a new approach, in my opinion isn't living in the real world.

Mr Wood: Thank you. I know that Mr Bisson wants to ask a question, but you commented that some of your district MNR budgets were cut as much as 50%. I can relate back to the summer of 1990, when Peterson and the Liberal government decided that the revenues were dropping off very quickly there and they didn't want to face what we had to face as a government and make the expenditure controls and do the things because the revenues were dropping very quickly, and we were heading into a recession or were very close to a depression in 1989 and 1990. I just want to throw that out there. I'll give my time to Mr Bisson.

Mr Bisson: Thank you very much, Mr Stokes. It's always a pleasure to be in your presence. You always have an interesting point of view to bring, especially with all your years in the Legislature and your work on this issue.

I want to come to the question of scaling because that's been raised before. I'm wondering if you can give me some detail. You made the comment that scaling methods utilized by industry are somewhat inaccurate by something like 20% to 30%, you were talking about, in regard to weighing. My understanding is that most of that is done on weigh scales when they bring them into the processing plant, either the paper mill or the sawmill, and I would think that would be regulated by the Ministry of Transportation or somebody in regard to knowing if those things are accurate. Can you explain what this is all about?

Mr Stokes: What happens in practice is that wood is cut and scaled at the roadside or in the cutting area by industry scalers and it's hauled into the mill in two ways. The first way is that it's hauled into the mill and run over a government-inspected scale, and there are bills of lading that are developed as a result of that weight-scaling method. The ministry does an audit of all those bills of lading and on that basis collects crown dues, stumpage dues.

Mr Bisson: On the weight taken off the weigh scale?

Mr Stokes: Yes.

Mr Bisson: Okay.

Mr Stokes: Now, there are other arrangements with other mills where the buyer does the scaling in the traditional measurement way.

Mr Bisson: In the bush.

Mr Stokes: From time to time, the weights and measures section of the Ministry of Natural Resources will do check scaling. People within the ministry responsible for those activities say that with existing technology and with their method of auditing, they feel that what they're being paid by way of crown dues accurately reflects what it is that is being trucked into the mill.

That's a far cry from what an independent logger who is hauling his fibre into the mill receives. I have sent scaling chits from many, many independent loggers into the ministry and asked them to do a check scale on this, but usually it's after the fact and it's almost impossible to trace it. They're saying, "We realize that what the logger gets paid is not a true reflection of what we as the crown get paid."

It's cause for great concern to me and my past constituents when they will invest literally hundreds of thousands of dollars in equipment to go out and try and make a living by operating on a third-party agreement and taking this fibre into the mill, only to learn that in a load, say, with 20 or 22 cords they're getting paid for maybe 18 or 19 cords. You wonder, now, what do they do with that wood? If 22 cords of wood went into that mill and the logger only gets paid for 18 or 19 cords, what happens to that? Obviously, they don't burn it. They chip it and they receive compensation for processing it.

It may not be totally adequate for the production of dimensional lumber, but I feel that the ministry has a responsibility to more closely monitor what goes into those mills. If they want to accept the weigh scale bill of lading, they should look at what a good many of these mills are using as a cull factor. I believe that it is way out of whack, and a lot of people I've spoken to, and literally, unless they go to court—and there was one case taken to court here within the past year and the logger was successful, but that's a very, very expensive process.

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Mr Brown: Good to meet you for the first time, Mr Stokes. Our problem with this act is basically trying to determine whether it lives up to its title, whether we're really talking about forest sustainability.

You've talked about the numerous reports, and as a relatively new Natural Resources critic I've seen most of them and not been able to fathom most of them. But I've seen most of them, and I understand there are well over 50 studies being done for the ministry at this present time about numerous issues relating to the forest.

It seems to me that it is time for this bill. It seems to me that after the timber EA reported, it was time for the bill. Our problem seems to be, and I guess that's what I'm asking you, does this bill reflect, in your view, sustainability, as the title says?

Mr Stokes: It goes some distance towards trying to describe sustainability. From my point of view, that buzzword came out of Norway and Prime Minister Brundtland and it's been discussed in international fora and it's like statistics. If you talk to five economists, you'll get six different opinions on any given set of statistics.

I'm not suggesting for one minute that this is the be-all and the end-all, but it's at least a beginning. Of course, if you look at the commitments made by the minister and the people who are responsible for such things in the ministry, you come to the conclusion that they're approaching this with an open mind. I don't think they're claiming for one minute—it would be ridiculous for them to suggest—that they have all the answers in this bill. But as I said in my presentation, anybody who suggests that it isn't timely and that it isn't time to get on with it I think is deluding themselves.

Now, sustainability to my mind is making sure that whatever harvesting you do, whether it's timber, whether it's wildlife, whether it's fishery values, it doesn't matter; if it's related to the biosphere in which we operate, sustainability in my mind is, don't harvest any more at any given time than you think is there as a base for it to renew and to regenerate itself. You can't do what happened to the cod fishery on the east coast or could very well happen to the salmon fishery on the west coast by running it down to where you don't know whether it's going to be able to rehabilitate itself.

I think we have time, with the values we're talking about, and we must leave enough there, after cutting enough to take care of present needs, but making sure there is a pool, a base, so that it will always be there for future generations. Briefly, that's my idea of sustainability.

The Acting Chair: Who's first? Mr Carr?

Mr Carr: I'll go first with a quick one. Thank you very much, Jack; a pleasure to hear from you.

As we went across the north, for example, a couple of days ago Avenor said, "Don't pass this bill." We were up in Kapuskasing; Spruce Falls Inc said, "Don't pass this bill as is"; in Espanola, E.B. Eddy said, "Don't pass this bill." You heard today the small companies saying, "Don't pass this bill." The native groups, had you been in Fort Frances, said, "Don't pass this bill."

As a former member, how would you suggest that we hear this overwhelming evidence from people—and I must admit that's without changes, so there may be some changes there—saying, "As is, don't pass this bill"? How would you as a former member respond to a member like myself who says, "How can I possibly support this bill when the overwhelming players in these communities are saying, 'As is, don't pass it'"? How do I do it?

Mr Stokes: I think it's human nature for people to be fearful of the unknown. If you ask them if they're happy with the situation under the existing Crown Timber Act, they will say no. They spend every waking hour being critical of the situation that they find themselves in at the present time. So it's clear that the status quo is not acceptable to anybody. If you ask Avenor, if you ask Boise Cascade, if you ask Kimberly-Clark, if you ask Spruce Falls, all of the major players, they're not happy with it. If you ask the small operators, they're not happy with it.

The thing is, you as legislators are going to hear that. That's understandable. That's almost a given. But that doesn't detract from your collective responsibility to try

and fix it. Now, this is an attempt to improve upon what we already have and trying to assure sustainability, as Mr Brown was asking about. But I think you're abdicating your responsibility if you say, "Well, everybody's against Bill 171, so let's just tear it up and go on our merry way." That is not acceptable. That's an abdication of government responsibility.

Mr Hodgson: Thank you, Mr Stokes. It's a pleasure to be here today. We've been grappling with this bill that's called forest sustainability, and I think everyone's agreeable to the broad principles of the act. There's a consensus in society for that. It's disturbing to myself, and we've mentioned it before, and I'm glad to see that you've mentioned it, about this base of information, to know what the benchmarks are and how we can sustain that harvest.

I'm sort of thinking here out loud, but you bring up the analogy of the cod in the Maritimes and the fisheries in the Maritimes. The harp seal has a great deal to do with the cod and there's a connection between when we banned the harvest of harp seals and when we depleted the fish stock, and nobody talks about it in the media. We'd like to blame man for everything. The proof of the pudding is that the Liberal government has reintroduced the harp seal hunt this year and there hasn't been a word of it in the newspapers. They recognize the problem. There was a connection there. We need this information in order to find the connection in how you will have a sustained yield.

My concern is that sometimes we bring in regulations—the only people who can afford to define these connections on what will be sustainable in our forest ecosystem are the people who have the resources to hire and do the studies. As you've mentioned, the MNR staff have been cut back and the resources aren't there.

My fear is that when we try to regulate, the regulations are based—nobody'll come out and say, "This regulation's going to help my company." They're going to say, "This is for the public interest and this meets the goal of sustainable achievement."

The small independents that you talk about don't have those resources. And an unintended consequence might be that they're not as competitive any more.

I'd just like your opinion on that. The scaling I've talked about before, and you went into some detail on that. If you take out the cull factor, they'll lower the base price. But I'd like your comments just on the first bit about, how do you measure this?

1230

Mr Stokes: Well, it was always a great concern of mine, whenever I asked the Ministry of Natural Resources how much the allowable cut was, what portion of the area that had been cut over in any given year was artificially regenerated, which was left to its own—they call it now free-to-grow—and it's still a concern of mine, notwithstanding what was said in EA and their report, where they said, "Generally speaking, we don't think there's much of a backlog in untended areas and areas that have been allowed to grow into a weed species."

At one time, when I first got involved, poplar and

birch were weed species. You know, you pulled away. It was just a nuisance. Now we've got people prepared to kill just to get a licence to cut those two species. I wish they could do something with the alder, because I could show you tens of thousands of hectares that have been allowed to grow in that. We haven't found a use for them.

But it's that kind of thing that we're not on top of. As I said, I mentioned in there that in the FRI database they don't have a handle on depletion, they don't have a handle on renewal, they don't have a handle on tending, and unless we dedicate sufficient funds within the ministry or academia or within the industry itself to come up with the answers to these things, we're still going to be sort of groping in the dark. But it doesn't mean that you can afford to sit by and do nothing. That's why I think it's important to make a start, as imperfect as it may be.

Mr Hodgson: But it's also important to do it well. Thank you.

The Acting Chair: We'll have to cut it off there. Mr Stokes, thank you very much for coming before the committee. You've given us a lot to consider, and we'll certainly be doing that in the next few weeks.

Mr Stokes: It's been my pleasure. Thank you very much for your time.

RIVER LAKE TIMBER LTD

The Acting Chair: I'd like to call up the next presenter, and the last presenter for our venue here in Thunder Bay, River Lake Timber Ltd. I believe we have a Mr Spittlehouse and an Edward Frisby who will be coming forward to represent this company.

Mr C.G. Spittlehouse: My name is C.G. Spittlehouse and I have with me our forester, Mr Ted Frisby. We appreciate the opportunity of being invited here today to present to you and your committee the reasons why we feel Bill 171 should be rescinded as it pertains to field chipping.

We represent River Lake Timber Ltd, and the function of River Lake Timber is as an independent logging contractor supplying wood chips and sawlogs harvested off Avenor Inc limits at Dog River, Ontario. It's chips being shipped direct to their Thunder Bay mill operations only and sawlogs being delivered to the local sawmills, as per Avenor's instructions. Our total number employed to sustain this operation amounts to approximately 60 people.

Hereunder we shall attempt to outline our reasons why this legislation pertaining to full-tree chippers does not apply:

(1) The fact that River Lake Timber does not have a wood source of its own, but rather operates on Avenor limits. It would therefore be impossible to supply a business plan. As you know, one of the requirements of such a plan is a source of woodfibre.

(2) Under Bill 171, we no longer have security of wood supply as we are being forced to operate under a one-year processing licence. Due to the large capital costs involved to set up such an operation, it is doubtful our financial institutions would be willing to provide financial

support under such circumstances. As a matter of interest, the capital outlay to finance a chipping operation such as ours amounts to \$5 million. In addition to this, support backups such as road-building equipment, maintenance facilities and transportation vehicles will amount to a further \$2.5 million.

(3) The fact that our entire chip production is delivered to Avenor's pulp and paper mill precludes any possibility of our exporting to other markets. If reporting of the disposition of the chips is a concern, they—Avenor—capture all of the production from our chipper at the mill, and this information is readily available.

(4) The mill that we supply must compete in quality and price on world markets. The additional cost to formulate business plans and forest resource supply analysis will drive our wood costs up, which will in turn have to be passed on to the mill, putting the mill at a competitive disadvantage.

(5) Will processing licences be granted to the highest bidder with the best business plan? If so, we must then compete with non-unionized operations that do not pay union wages or benefits. Our entire labour force is comprised of union people, all of whom are members of Local 2693 of the IWA. Should our attempts fail in this regard, such a failure will have substantial impact on the union. Avenor operations alone consist of a minimum of 400 woodlands employees.

(6) We do not feel our type of operation falls in the same category as mills, including sawmills, for the simple reason that the mills are in a process of manufacturing a finished product, such as paper, pulp and lumber. This is clearly outlined in the ministry's copy of Bill 171 on page 9, subsection 27(1), a definition of manufacture in Canada:

"A forest resource licence that authorizes the harvesting of trees is subject to the condition that all trees harvested shall be manufactured in Canada into lumber, pulp or other products."

It must be clearly pointed out at this time that our primary function is to produce an ingredient to produce such a product, along with various other ingredients in addition. We also produce sawlogs for the sawmills by processing 16-foot bolts of the larger trees and full-tree chipping the residual. We are committed to a specific quota of logs as specified by Avenor. They in turn have an agreement in place each season with the sawmills with an overall quota embracing all their contractor operations.

(7) A great deal of emphasis appears to be pointing to sawmills that are processing wood in roundwood form. We must point out that our process entails the utilization of the entire tree, including limbs and tops, being a full-tree chipping operation. The quality from field chippers versus sawmills is far superior, being fresher, lower in bark content and are the optimum size distribution which yields per hectare up to 15% versus the old roundwood operations. Such a system bodes well in keeping within the harvesting limits set out in the said licence, which all helps to maintain a sustainable crown forest.

To sum up, the requirement to have an annual processing licence, as we see it, would: (a) place us at a com-

petitive disadvantage with non-unionized operations; (b) remove incentive for future development and financial expenditure as there is no guarantee of future licences; and (c) most certainly jeopardize full utilization of our forest resources.

We ask that the requirement for the full-tree chippers to have an annual processing licence be removed. If for some reason that cannot be achieved, we feel that full-tree chippers supplying wood to a mill under the umbrella of a sustainable forest licence should be exempt from having a mill licence.

That is my presentation, Mr Chairman, and I have copies here I will leave for your panel.

Mr Brown: I've had this discussion with a number of presenters, probably before you came in, but this is an issue that has been raised over and over again here in Thunder Bay. The point I guess I was making was that the chipper is really an extension of the mill. It is just really in a different location.

We've had a lot of debate about what's best end use and whether there really is anything but the market that should decide best end use. Given the fact that some people believe that sawlogs are the best use and then you chip the rest, you're telling me you do that on your limits anyway, that's how you operate.

Mr Spittlehouse: Yes.

1240

Mr Brown: You do have the capacity to chip that whole tree, but you send it to the sawmill, which is different than some other operators who say they are chipping the whole tree because the economics of their operation indicate that should happen. If you had a choice, which is the most efficient for you? If you were out there on your own and didn't have contracts with Avenor and didn't have to operate under regulation, would you be chipping the whole tree or would you be sending it to the sawmill, if competitive prices were the only determinant?

Mr Spittlehouse: In answer to your question, no, we wouldn't. I must reiterate that we only take the 16-foot boles out of the trees that are large enough to do this, and we chip the rest. I suppose it would be nice to just throw the whole thing through the chipper. I myself have been in this game now for 29 years. Ted is a university graduate. He's been in it several years. We've also been heavily involved with regeneration. No, we don't think merchantable timber like that should be thrown in and chipped. It's not necessary. We would prefer to continue supplying sawlogs as we are now.

Mr Brown: But really, that determination can be made in the forest just by the licences granted by MNR on that particular area, so the government would have control. It really doesn't relate to the actual method of harvest or how you transport the tree to the plant. That's really what it's about: You're making it easier to transport and more efficient to transport the tree to the mill by chipping it rather than leaving it in a roundwood form. Am I wrong in that? There would be transportation advantages to chipping it right where it stands, besides the obvious efficiencies in the woodland itself.

Mr Ted Frisby: That's correct. The efficiencies aren't only in transporting the wood, but there are certain other steps that you can eliminate from the process—delimbing and slashing, those sorts of things.

Mr Brown: I understand the first part about the woodlands efficiencies, but could you give me some indication just on how more efficient it is to transport chips rather than wood in the round? Obviously you get more chips per cubic foot of space on a truck. Do you have any numbers on that?

Mr Spittlehouse: I think the proper way to answer that one is that when you're shipping roundwood to the mill, you're shipping probably 10 to 15% of waste in the form of bark and so on, whereas chips are solid woodfibre. That's where the big difference is.

Mr Brown: You're also shipping a fair bit of air between the logs and what not when you're moving them in round as compared to what they would be—

Mr Spittlehouse: That is correct.

Mr Brown: It would cost more trucks to do it.

Mr Spittlehouse: Yes.

Mr Brown: Maybe we can have this discussion after.

Mr Wood: There's air between the chips, too.

Mr Brown: Yes, I understand that. The parliamentary assistant's a lot of help most of the time here.

Mr Carr: Thank you very much for your presentation. You laid it out very well in terms of what you want to see. I take it that if these changes are incorporated, some of the things that you've outlined here, if they come in as amendments to the bill, then you'd be happy with the bill, as long as you get these changes?

Mr Spittlehouse: Yes, sure.

Mr Carr: Okay. When we go through clause-by-clause we're going to hopefully get an indication of what changes the government will make. Obviously we don't know. We've heard numerous people like yourself outline some of the concerns. I think that will probably be addressed in clause-by-clause and we would appreciate your feedback at that time. I know it's difficult to keep in contact with what is happening, particularly when you're trying to survive and prosper, but if the amendments do come in and the changes and what the government says it will do make it acceptable, we need to know that. Hopefully through the clerk we can do that. Certainly we'll attempt to make sure that the government brings this forward, but we obviously need to rely on the government for the decisions.

I think you've laid it out very clearly. They certainly have heard this day after day in our hearings. Now it's up to the government how it's going to respond. We'd appreciate whether you still, at the end of the day, feel like your amendments have been met. If so, we would look for your guidance.

I think Chris had a question. I see him looking at his watch. He probably wants to get on with it. Good luck.

Mr Hodgson: Thank you for your presentation. I just have one quick question, just a clarification. We've been told—we've heard before too—about the financial implications of a one-year licence, that it's not enough

guarantee to the banks. But we've been told that it presently exists that way to the operators—not yourselves—who were responsible for it in the past.

Section 5, paragraph 5, of your presentation: Can you explain this in a little more detail? Your concern is on how the licences will be granted if you do it every year and that you will have to compete with non-unionized—it'll be done probably competitively. Is that your indication?

Mr Frisby: Yes, right. We are concerned that the licensing process will be used to regulate who can conduct business to operate as a contractor or a chipper operation in Ontario. Will the licensing process, by having a business plan, be given to the highest bidder who has the best business plan, who is operating with non-unionized people, who can cut certain costs that we can't?

Mr Hodgson: I'm interested in the government's response to this as well, so I'll forfeit my time to allow more lengthy give and take with the government, if they should so wish.

The Acting Chair: That's very generous of you, Mr Hodgson. We'll go over to the parliamentary assistant first.

Mr Wood: I think that next Tuesday in Toronto we're going to have an opportunity to get into more dialogue with this with the IWA Canada union. It's coming in to make a presentation. I'm sure that we can get a dialogue as to how they feel their membership throughout Ontario could be affected.

I want to get into another area of concern that's crossed my mind as we're talking about chipping operations, whether it be permanent chippers or whether it be portable chippers, and the waste, sawdust and bark. In Spruce Falls's operation in Kapuskasing, they save millions of dollars a year by burning the bark and sawdust. They save on natural gas costs and they produce the steam and whatever. In Cochrane they have cogenerating plants. It's a fuel they use to produce electricity. There are these operations all throughout northeastern Ontario and I'm sure there are some in northwestern Ontario at some places. What happens to the bark and sawdust that other companies like Spruce Falls use as fuel? They save millions of dollars a year in using this product. What happens to it now? Is it trucked or transported to some spot or is it left in the bush?

Mr Frisby: I can only speak now on behalf of Avenor—they're the people we work for—which does some cogeneration at the moment. Some of these closer-in chipping operations are producing what they call hog fuel. They don't ship just the bark and waste in that form; they process it in the bush with the hog fuel processors and it is trucked to the mill.

Avenor still is processing roundwood for, I believe, another one year, when this operation will cease. Then this hog fuel operation will be increased to compensate for the loss of the waste their getting out of their wood rooms now. I would certainly expect that we ourselves will be processing that within another year.

Mr Wood: I'll leave my time to Mr Bisson.

Mr Bisson: I'm curious about something. I take it that your operation—you're a wood-chipping facility for what company again?

Mr Frisby: Avenor.

Mr Bisson: So you're not taking the wood from your own limits; you're cutting off other people's licences?

Mr Frisby: Right.

Mr Bisson: Do you presently get some kind of a licence to operate?

Mr Frisby: No.

1250

Mr Bisson: I guess what's before us as a committee is how do we deal with wood-chipping facilities, because as you know, presently all wood-processing facilities have licences like any other business. From the corner store to the business that's down the street here in regard to the paper mill, all get a licence every year. That's a requirement of doing business, and with those licences there are conditions that you have to meet in order to hold on to your licences. I guess what's at question is, should wood-chipping facilities be licensed? That's what I'd like to pursue here a little bit.

The concern that you have is that—I'm not sure if I follow this 100% and this is where I need clarification—if you're required to have a licence, you're worried that your licence will be tied to the flow of wood off your own section 24 licence. Is that what the concern is?

Mr Spittlehouse: Well, the fact that we do not have a licence, that we operate on Avenor's licence. We do not have a wood source. Therefore, how can we produce a business plan if we don't have a limit?

Mr Bisson: If I was to go out and start a wood-chipping facility now and I'm going to go to the bank, I've got \$100,000 of my own money and I'm going to go to the bank and borrow some money to be able to start the business, what's going to predicate me from being able to get the dollars from the bank is a contract with another wood-processing facility that I'm going to sell my chips to. Right?

Mr Spittlehouse: Right.

Mr Bisson: That's basically how I read how this works. I was looking at the regulations through your presentation. What it's basically saying is, "Before issuing, renewing or cancelling a forest resource processing facility licence, the minister may require that a business plan be put forward." It doesn't say "shall"; it says "may." I guess it gives the minister a certain amount of flexibility when it comes to your kind of operation. But I would not be able to borrow the money unless I've got a contract for somebody supplying me wood and somebody to sell it to. The bank would never give me the money. Where I'm having a problem trying to make the connection is how the licence would put you out of business, because it's not the licence, it's the ability for you to get a contract to sell your product.

Mr Spittlehouse: The point I made there was the fact that a processing licence is only going to be granted for a term of one year, as we understand it.

Mr Bisson: Like every other licence in Ontario, yes.

Mr Spittlehouse: I don't think that's the way it is now, is it?

Mr Bisson: Every mill processing facility, be it a paper mill, a sawmill or the corner store, gets a licence to operate for one year. Some are municipal licences, others are provincial.

I sympathize with where you're coming from, but I just want to make sure that I understand, because what I'm interpreting you and others saying is that what you're worried about is that if you get a licence it would mean to say that you have to have the supply of wood. In talking to ministry officials, that's not how I read this. I read this as saying that we don't want to allow people to go and build up mills and not have a supply of wood. Because of the battle we're having now in the forest, there's sometimes not enough wood to go around. If you allow more and more sawmills to establish themselves, or chipping operations or pulp and paper mills, if you don't have the supply of wood to supply them, you're going to have a real mess on your hands. That's what this is intended to do.

I see you as an extension of a wood room, basically. That's taking the wood room out of the operation, putting it into the forest, and your licence is really subject to your availability to sell your product to the mill. If we can, let's say, calm your fears in regard to that, that it doesn't mean to say that you have to have a supply of wood—in other words, under a section 23 or a section 24 of the bill—that it's predicated on your business plan in regard to you can sell your chips because somebody wants to buy them and somebody is going to supply you with the raw material, would that satisfy your fears or would that answer your fears?

Mr Frisby: We are somewhat concerned that, maybe not today, maybe not five years from now, but at some point in time, as the legislation would stand the minister could say: "There are too many chips on the open market being supplied by sawmills and such. We're not going to grant you a licence this year." Does that possibility exist?

Mr Bisson: It exists now by virtue of the market. We had that exact situation in Hearst, and in Cochrane and Timmins, where the market wasn't there for the chips and it basically shut down the mills to a certain—

Mr Wood: Sawmills had to shut down.

Mr Bisson: The sawmills, yes.

Mr Frisby: All of our chips are captured by Avenor's mill, so we have a definite person we supply our wood to. But could you in the future say that these chips that are being produced as a byproduct of a sawmill, there are enough of them on the market that we no longer can operate, that Avenor must absorb all the chips produced at sawmills, thus not granting us a licence in the future?

Mr Bisson: I'd have to go back and check the answer on that to make sure, but the way I understand the legislation is that it's not intended to deal with the best end-use policy, and that's what you're referring to. There's a fear within industry that this is what we would like to do, and to a certain extent maybe that's something we should look at. But what I want to do is I want to make sure that the legislation works for you. Everybody

on this committee has that as an interest. If we can clarify the question of the portable mill issue in regard to the legislation, in order to make sure that we view you as the extension of the wood room and not so much the person who holds the section 23 or 24 licence, my question to you is, does that respond to the fears? Would that satisfy your concerns? I want to make sure that you can do business. That's the bottom line here.

Mr Frisby: Yes, I understand that. I guess that is part of the fear that we have, that there isn't that line drawn that we are an extension of the wood room, because we've always been producing wood in raw wood form and sending it in. That was fine. But this doesn't define that we are an extension of the wood room. It sets us up to appear to be a mill separate from everything else, operating on our own. That's some of the fear we have.

The Acting Chair: Gentlemen, thank you very much for your presentation. There is much to consider. We appreciate your appearing before the committee here today.

Mr Brown: Mr Chair, I would move that the Elk Lake Community Forest, represented, I believe, by Paul Tufford, be heard in Toronto next week.

Interjection: Agreed.

Mr Bisson: For a half-hour?

Interjection.

Mr Brown: I would also move that Marie Rauter be heard for one half-hour in Toronto next week.

The Acting Chair: Let's just deal with one at a time.

Mr Brown: I think the first one was agreed to.

The Acting Chair: The first one is agreed, so there's no discussion on the first one. That's one of the government's pilot projects. We're going to see that.

You've now moved a second motion distinct from the first.

Mr Brown: That Marie Rauter be heard for one half-hour.

Mr Mammoliti: Can I just get an indication of the schedule next week?

The Acting Chair: Sure. I'll defer to the clerk.

Mr Mammoliti: I know that I've made a number of plans myself next week and I'd like to know what the schedule is before we go any further.

The Acting Chair: I'll call upon the clerk to answer that.

Clerk of the Committee (Mr Franco Carrozza): At the present time, Mr Mammoliti, there is time for the Elk Lake Community Forest, and if the committee agrees to the request from Mr Brown, there is time for a half an hour for that individual.

Mr Mammoliti: When?

Clerk of the Committee: Next week. I can give you an idea.

Mr Bisson: Can you tell us what the time slot is?

Mr Mammoliti: Yes, what are the time slots?

Clerk of the Committee: We could have 4 o'clock to 4:30 on Tuesday, August 30, and 4 o'clock on the Wednesday. The dates are open.

The Acting Chair: That answers your question, Mr Mammoliti? All right. Is there any more discussion on the second motion of Marie Rauter coming before the committee or is that agreed to by the committee?

Mr Hodgson: When we talked about this earlier, I stated that it's been the common practice of this committee to allow people to speak for half an hour, and this just follows along with that. Kapuskasing was an example; today is an example.

Mr Mammoliti: I was just concerned about the dates.

Mr Bisson: I view this as a friendly motion and I think this is something the government can support. Our only concern is that we want to make sure we don't send out the signal that one group is more important than the other. But certainly we've had the opportunity where people have made more than one presentation. We'd support that.

The Acting Chair: Thanks very much. Is any more discussion needed or can we just vote on this?

Mr Wood: Just briefly, the difference here is that she's not bumping anybody else out of their spot who would have to be rescheduled.

The Acting Chair: I take it, then, that's accepted by the committee. All right. Thank you for that.

The committee will adjourn to Toronto on Monday, 1 o'clock.

The committee adjourned at 1300.

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- White, Drummond (Durham Centre ND)

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Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South/-Sud ND) for Mr Wessenger
Carr, Gary (Oakville South/-Sud PC) for Mr Arnott
Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson
MacKinnon, Ellen (Lambton ND) for Mr Mills
Martin, Tony (Sault Ste Marie ND) for Mr White
Miclash, Frank (Kenora L) for Mr Sorbara
Ramsay, David (Timiskaming L) for Mr Grandmaître
Wood, Len (Cochrane North/-Nord ND) for Mr Morrow

Also taking part / Autres participants et participantes:

Wood, Len, parliamentary assistant to Minister of Natural Resources

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Yeager, Lewis, research officer, Legislative Research Service

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Standing committee on
general government

Comité permanent des
affaires gouvernementales

Crown Forest
Sustainability Act, 1994

Loi de 1994 sur la durabilité
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 29 August 1994

Lundi 29 août 1994

The committee met at 1305 in committee room 2.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Acting Chair (Mr Gilles E. Morin): Good afternoon. I've been asked to replace the Chair, Mr Hans Daigeler, who has lost his voice. I presume that for a politician it is a curse, but in this instance I think it is a blessing.

CONSERVATION COUNCIL OF ONTARIO

The Acting Chair: I will ask the first witness to come and take a chair, the Conservation Council of Ontario. You will have half an hour: 15 minutes for your presentation and then we reserve 15 minutes for the members to ask you questions.

Mr Chris Winter: Thank you for the opportunity to come and address the committee today and tell you our concerns and, hopefully, where our support lies for measures being introduced here in the Crown Forest Sustainability Act.

First of all, the Conservation Council of Ontario, as many of you probably are well aware by now, is an association of 33 provincial organizations, all of which are united in their common interest for the protection of the environment and the conservation of natural resources. We've been in existence for 40-odd years, working to develop a consensus on conservation and environment and, I would say, working on sustainable development long before it became known as a term and in vogue as a trend. We fully appreciate the difficulties this government and previous governments have had in trying to define sustainability and put it into practice with an act and with programs and activities of the ministry.

That said, I think it also gives us some good credibility in reviewing the proposed legislation and commenting on its ability to actually achieve the goal of sustainability. In the work we've done, and the whirlwind of activity in the last few weeks and months leading up to it, it's unfortunate that we have reached the conclusion that at this point in time we cannot endorse the Crown Forest Sustainability Act. I choose that wording carefully. I was reading Peter Duinker's presentation on the way over this morning and I noticed he said the same thing in his presentation: "I choose my wording carefully."

I choose this wording carefully because the council and our member organizations have all raised concerns about the act, and I think many of them have made comments and presentations to this committee. When we sat down and tried to work them through, we realized that there was not enough support for the act as it currently stands. Further, we think it is going to be difficult to address the concerns we have in the time frame allowed and through the clause-by-clause amendments. I'm willing to be convinced otherwise and I hope I will be.

We've recommended that the government withdraw the act and refer both the legislation and the manuals back to the ministry staff and to the senior policy advisory committee that is part of the terms and conditions of the class environmental assessment but has not yet been set up. Give the act and the manuals a thorough overhaul, keep the good parts of them, iron out the bugs, and then, as soon as possible, reintroduce a piece of legislation that reflects the consensus of all the organizations involved in forest management in Ontario and as well demonstrates a clear ability to actually implement, to follow through on, this commitment.

In looking at the act there are two key underlying concepts, and I just want to touch on them quickly.

First is sustainable development, and that is reflected in the ministry's Direction '90s document as well as in other policies and so on that have come out since then. Sustainable development reflects, in my mind, the integration of environmental, social and economic needs. In a human-centred definition it is the ability to meet the needs of a current generation without harming the ability of future generations to enjoy the same opportunities as we do. In an environmental context it is the assurance that social and environmental development does not threaten the integrity of the environment or the stock of natural resources.

The second concept is environmental values, and that's the one that's coming forward now under the Environmental Bill of Rights and the statement of environmental values that each ministry is producing. The environmental values present a clear understanding of the requirements for ecological health. It is an important step in measuring sustainability. Without first saying what your environmental values are, or your social or economic values, you cannot define sustainable development, because sustainable development is dealing with the integration and the conflict, and hopefully symbiosis, of all three.

Several reports have come out in the last few years that are beginning to address that question of what is sustainable with respect to forest management and also

what the environmental values are, and those are the reports of the Ontario Forest Policy Panel, the Forest Industry Action Group, the Ontario Wildlife Working Group and the Old Growth Policy Advisory Committee. We would have expected that the Crown Forest Sustainability Act would have started with those as the foundation for legislation. Instead what we have seen is that the act is drawing them in as add-ons to the legislation and to the requirements that were there under the Crown Timber Act. Rather than transforming the ministry and the forest management process, what we've seen more is the old process being amended slightly to adapt to the requirements and the recommendations of these reports. That's not the way we would have started with it. So right from the start, we have a problem with the way the legislation was developed.

It's one thing to come here and say: "Here are the specific problems we have with the act. Change this, change that." I guess we realized we had some fundamental problems with the act and there are some fundamental problems with the ministry. This is not to say that they aren't being addressed. I think it's fair to say that the Ministry of Natural Resources, the staff within the ministry, has made a tremendous effort and has shown a tremendous commitment to sustainable development. What I'm seeing is that the task of transforming the ministry and the ministry's legislation is much bigger than we may have anticipated in Direction '90s or hope to do within the mandate of the current legislative period. It's a very tough issue.

The way we need to come at this is that first of all, there are three basic points we're looking at: First is the definition of "sustainability," second are the principles for sustaining forests, and third is the planning process. It's the third one that I'm going to contend is the key element and the element that is missing from the Crown Forest Sustainability Act.

I think you've heard several definitions of forest sustainability come forward in your hearings. I present one to you here, which is to replace section 1 with a goal statement developed by the Ontario Forest Policy Panel to make it read, "The purposes of this act are to ensure the long-term health of our forest ecosystems for the benefit of the local and global environments, while enabling present and future generations to meet their material and social needs."

The one main difference in this that's worth highlighting is the term "the long-term health of our forest ecosystems." I think that's a little more direct than saying "the sustainability," which again requires defining. This is a recommendation which I think will be fairly easy to put into the act.

Second are the principles for sustaining forests, again section 1. We note that the Environmental Bill of Rights included a five-statement summary of the requirements for a healthy environment. To my mind, this is one of the strongest summaries in legislation of what a healthy environment is, and I commend the government for putting that into the Environmental Bill of Rights. I would like to see something similar in the Crown Forest Sustainability Act. It should include the principles for

healthy forests. The way to do that is to go back to the Ontario Forest Policy Panel and take the clauses they have and add them into a new clause in section 1.

"The purpose set out in 1(1) includes the following:

"(a) maintaining ecological processes essential for the functioning of the biosphere, and conserving biological diversity in the use of forest ecosystems;

"(b) maintaining large, healthy, diverse and productive forests;

"(c) ensuring that forest practices will emulate, within the bounds of silvicultural requirements, natural disturbances and landscape patterns;

"(d) ensuring that forest ecosystem types that cannot be returned to similar and healthy forests will not be harvested;

"(e) ensuring that forest practices will minimize effects on soil, water, remaining vegetation, wildlife habitat and other values."

It's a good start. It's something that defines more clearly what we mean by a healthy forest. Without that definition, without those principles in the legislation, it's virtually impossible for us to measure whether all the mechanisms enabled under the act are actually achieving anything. We've got nothing to compare it back to in the legislation. That's a very key point and one that I think is not insurmountable at this stage in the process.

The third is the planning for sustainability, and I'll admit this one has given me a lot of trouble. It started with going to the hearings on the manuals and asking the question: Where's the province, where are the provincial requirements in this? What we're still seeing is that 95% of the act and the activities under the act are aimed at the local management unit. Where's the commitment to provincial planning, to defining the requirements for sustainability at a provincial level?

Surely if we're doing good management planning at the local level, it has to be within the context of provincial policy and the statement of the provincial requirements of sustainability with respect to biodiversity, protection of ecosystems, the desirability of forest practices and the mitigation of impacts. All those things need to be spelled out at the top, and there's nothing in the act that requires that.

We were directed to the Forest Management Planning Manual. In looking at it in the first draft, everything in that manual was aimed at the local level. It requires that local forest management plans are prepared by a registered professional forester with the assistance of an interdisciplinary planning team and a local citizens' committee. It shows that forestry is still driving the planning process and that the act does not provide a clear process for determining provincial requirements for sustainability.

The solution we put forward is to change part II, "Management Planning and Information," the section that currently only addresses the local level requirements for planning.

One of the things we look at is the advisory committees that are mandated or required under the terms and conditions of the class environmental assessment and ask

that they be incorporated into that part of the act.

Specifically, new sections are needed under part II to explain the role of the ministry and the provincial policy, technical and regional advisory committees in identifying the provincial requirements for sustaining healthy crown forests.

It's odd to note that the act does refer to the citizens' advisory committees but that it does not refer to the provincial-level or the regional-level committees, and we think it should.

The second is the connection to the provincial land use plan process and the provincial land use strategy. Under the strategic land use planning exercise of the early 1980s, the ministry developed its land use plans to guide the process within districts in Ontario. That process is something that should be clearly tied to the forest sustainability act. Whether it can be put into the act, I'm not sure. It's very difficult, I think, to write that into the act, and I can't give you a specific wording on it, but what we do want to see is the ministry's commitment to maintain a strategic land use plan and the requirement that local forest management plans shall be consistent with the provincial plan and related policies. Without that kind of commitment, there's nothing that holds the local management process accountable to the provincial plans and policies.

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Finally, we've got a little list of some of the other issues that are weak in the act and that we'd like to see strengthened.

State of the forest: State-of-the-forest reports are a condition of the class EA. We'd like to see section 19 of the act expanded to describe key components of a state-of-the-forest report.

Protected areas: The act should reinforce the need for the ministry to identify and protect a complete set of protected areas at both the regional and management unit levels. We note that Ontario is still well short of the 12% target set by the World Commission on Environment and Development and the endangered spaces campaign.

Forestry areas: One of the points that has been suggested is that the ministry and the planning process under the forest sustainability act should be encouraging or helping to identify where we want to see forestry happen and where with intensive management we could increase the yields and lessen the strain on other areas and on more sensitive areas and so reduce the competition for forest areas.

Community control: It's a favourite one with the conservation council because we have been working for a good five years with Geraldton on the community forest project. We were disappointed to see that the act made no reference to "community control." It made reference to "community advice" through the advisory committees. We'd like to see a strengthening of the role of the community advisory committees or a link between those committees and the community forest approach where the community has a direct stake in the management of its surrounding forests.

Accountability: The independent audits should be a key

element of the legislation and regulations. Without a clear audit process and measurable goals for sustainability, there's no accountability within the ministry to the purpose of the act. Not only do we need the audit process, but we need to know what it is being accountable to or what the goals are that the ministry should be achieving.

Enforcement: We note that the ministry is transferring a lot of responsibility to industry for regeneration and management of forests. That can only be done with the assurance that the enforcement measures will be strong enough to make sure that the industry does carry through on that commitment. Even so, enforcement is not a substitute for good, solid, upfront planning.

Finally, private land forestry: You all know that private land forestry isn't part of crown lands, but we would like to see the commitment from the ministry to strengthen the private land forestry initiatives and support for private land forestry because we believe private land forestry is an important piece of the forest picture in Ontario, the forest economy, and is a way of reducing the stresses and the demands on crown lands.

Given the nature of all these concerns, we find it hard to say that we think these issues can be addressed within the legislation and within the time frame. Therefore our recommendation is that the ministry delay third reading of the Crown Forest Sustainability Act and conduct a thorough review of the act and the mechanisms it is intended to empower.

We suggest this be done through the senior provincial policy committee. It has to be set up under the terms and conditions. The time to do it is now. Use that committee to flesh out the consensus and the support that is there for sustainable forestry in Ontario and then reintroduce the act at a later date.

We realize there are implications to this. The implication for government is that it effectively removes the introduction of the Crown Forest Sustainability Act from the current legislative session. This cannot be helped. We believe it's in the government's best interests to show the statesmanship required to change course and work in cooperation with the senior provincial policy committee and the various organizations that have already contributed so much time to the consultation processes of the past five years.

We believe the staff working on the manuals are genuinely committed to improving the ministry's ability to manage for long-term sustainability. We think this recommendation will only help them in making that transition.

Finally and possibly most important are the implications for forestry issues in Ontario. Forestry has the potential of being an extremely contentious issue, and we cannot afford to ignore the potential for conflicts that will arise in future years. We cannot ignore the threats to the resource and the threats to the economy. We need to address it head-on. That's why we think that if we don't take this course of furthering the debate and dialogue on sustainability and enshrining that in legislation and the manuals, we may find ourselves in a situation where we're in the contentious, adversarial position that has

dogged BC and other areas, and we may find ourselves back to the Temagami-style approach. That would be counterproductive to all the good work and the potential for cooperation that's happened in the last few years.

In short, I hope we can find ways of making the legislation work. I would be extremely happy if this committee and the government could find ways of addressing these concerns within the current legislation. I have my doubts that it's possible, but you certainly have our commitment. We're willing to work with you to try to find a resolution on these issues.

Thank you for your time, and I welcome all questions.

The Acting Chair: Thank you, Mr Winter. We'll start with Mr Brown. We have about two minutes each.

Mr Michael A. Brown (Algoma-Manitoulin): Thank you, Mr Deputy Speaker; always a privilege to have you in the chair.

Chris, you presented a very articulate and well-thought-out brief with, I will say, some ideas we've been hearing not just from you but from virtually all players in this discussion. My favourite question is that the government seems to be saying to us, "We're not defining sustainability because sustainability is what this act is." In other words, the manuals, the regs, everything taken together, equals sustainability.

In your definition of sustainability—there are various definitions, and you've given us one—you're saying to us that this doesn't meet sustainability. Is that what I'm hearing, that it doesn't add up, that this isn't sustainability?

Mr Winter: The definition and what's in the act at this point in time?

Mr Brown: Your particular definition. If you stack it up against this act, do we get sustainability, using your definition?

Mr Winter: I can only say I haven't a clue. I haven't a clue because I have no assurances that what is contained in the act and the mechanisms it enables are going to achieve sustainability. The one key mechanism that should be in there is the defining of the requirements for sustainability. I think we all know we don't know what it is. We know we have forests in crisis, we know we have overharvesting on areas, and we know we have local economies that are in crisis and not sustainable. We know there are a lot of things going on that aren't sustainable, but what we don't have is the way forward to find out what is sustainable and to really get that into place.

The definition, in my mind, is only a minor part of it. That's why I say we could put in a definition of sustainability but it's probably not going to address the fundamental problems that are there with respect to how we flesh that out, plan for sustainability, identify the conflicts, address them at an early stage in a way that we can deal with the conflicts and the tradeoffs that have to be made. It's not so much a question of finding the true definition of sustainability, the Holy Grail of sustainability; it's a matter of making sure that the tough decisions that we have to make are made in a way that everyone has an equal say in it and we feel comfortable with those decisions.

Mr Chris Hodgson (Victoria-Haliburton): Thank you, Chris, for coming in today. I enjoyed your presentation. You've alluded to the fact that this bill is political in nature, that it's held out to the international market that products coming out of our forests are sustainable, to people who are concerned about the forests and ecosystem, without defining what ecosystems are going to be sustainable or what the base is that you're going to measure sustainability against, and it's held out to the people who work in forest products in northern Ontario that their jobs are going to be sustainable for ever.

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The problem we have is that there are some good things mentioned in this bill, like the trust funds, but that was set up under Bill 160, not under Bill 171. The citizens' committees that you referred to as being positive were mandated by the environmental assessment. What is there specifically? Where do we start from here, given that we don't have the base or the inventory to even start, not in terms of a concept of defining sustainability but in terms of having something to measure it against? You mentioned the provincial interest, but the provincial interest has to have some base to work on.

Mr Winter: One of the things about the nature of this problem is that it's far bigger than any one of us can deal with. I don't feel bad that the NDP hasn't been able to deal with it, because I don't think the Liberals or the Conservatives or any one of us would have been able to deal with it at this particular point in time.

Mr Hodgson: Are we better, though, with the old 1952 bill than to take this?

Mr Winter: To my mind, it's six of one, half a dozen of the other. To those who are more focused and understand the nuances of it better, they might give you a different answer, but I come at it from looking at: How is this thing changing the planning process in Ontario? How is it achieving the policies, the requirements for protection of ecosystems or sensitive areas? How is it promoting changes in forestry practices? I don't see anything in there one way or the other. I'm being asked to believe that it will, and my sense is that nothing in the act is going to make it happen. What will make it happen is the commitment that may already be there within the ministry, the forest industry and the other stakeholders.

Mr Len Wood (Cochrane North): Thank you, Chris, for coming forward with your presentation. I want to go back a little bit. You're well aware that over the last two or three years, and probably going back four years, there's been public discussion and consultation on what has to be done and what can be done, what can't be done. The last two weeks have been pretty hectic, getting the public view of what they think of the legislation, what amendments they think there should be, what should be in the act in terms of sustainability, what can't be put in there. I understand that you were part of a group this morning that was also getting the message out there to the public about what you would like to see, and you're presenting here today.

You're saying the local committees don't go far enough, but there are provisions for forest management boards that will have more decision-making as far as

community control is concerned. I just want to comment a little on that, and then I want to go back to sustainability.

One group made a presentation saying that timber must be sustained. Back in 1926 was the Timber Act, and then in 1952 there was reference to it again, but it's never been defined in legislation in terms of sustainability of the forests, including the water, the animals, the trees. One person gave the definition that if a tree takes 90 years to grow from a seedling, if you're planting, for every hectare of trees you're cutting, based on 10-year harvesting, one ninetieth of it, as far as the trees are concerned it's sustainable for ever. For sustainability, in his opinion, you had to talk about forests. You couldn't talk about a federal definition of sustainability; you couldn't talk about a provincial definition of sustainability. You had to define it more locally depending on the species of trees, the type of wildlife that's there, the type of water. I just wondered if you wanted to comment on that.

Mr Winter: You need to define sustainability both at the local level and at the broader level. You cannot have sustainability just at a local level. You have to look at the interplay between various local ecosystems and the provincial or regional ecosystem.

In terms of the management approaches or the harvesting and so on and how that impacts on the question of sustainability, any time you do a harvesting operation, you have an environmental impact. If the definition of sustainability is one that says it has no impact on the integrity or the health of the ecosystem, you run into difficulties of saying: "Does that mean I do nothing, or does that allow me to do everything as long as there's something still coming back? And what is a healthy ecosystem?"

The difficulty we're having with this legislation, and that I think all of us are having grappling with the issue, is that we're trying to find those answers without having spent the time really working through and saying, what is a working definition of sustainability? I think that's what you're getting at there a bit, something that is closer to a working definition.

The Acting Chair: I'm sorry, but the time is up. Mr Winter, thank you for your presentation.

Mr Brown: Mr Chair, as the next witness comes forward, I understand there are still some openings in the committee hearings. We have some time left, according to the clerk. I believe we have a letter before us from a Professor Aird of the University of Toronto faculty of forestry, and I would move that if time permits we schedule Professor Aird. Also, we have had a request from J.J. Hilsinger, who is from Sault Ste Marie, who would also like to be heard, time permitting. Is there any problem with that?

The Acting Chair: Does everybody agree? So be it.
EARTHROOTS

The Acting Chair: Good afternoon and welcome to our committee, Mr McDermott. You have half an hour. Whatever time is left after your presentation will be divided equally among the three parties.

Mr Dan McDermott: I'm Dan McDermott, the campaign director for Earthroots. We are the successor organization to the Temagami Wilderness Society, the people who organized the Temagami protests of 1989, which you have just heard referred to by the previous speaker.

Good afternoon, members of the committee. The Crown Forest Sustainability Act as it currently is written is a fraud. The CFSA does not define the term "forest sustainability," does not establish any criteria for the achievement of this undefined goal, and provides no specific penalties for the private sector, ministry staff or the minister for failing to achieve what is touted as the *raison d'être* of the act.

The CFSA does get off to a good start. On the title page, the act is described as "An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario." On the very next page, this laudable goal is again stated in the first paragraph. It is unfortunate that this is the last positive thing I will have to say about this bill.

In the very next paragraph, Bill 171 abandons completely any pretext that forest sustainability is a real component of the CFSA with the admission that "The sustainability of a forest ecosystem will be determined in accordance with a Forest Management Planning Manual to be prepared by the Ministry of Natural Resources." In other words, MNR will continue to have the right and responsibility to manage Ontario's crown forests in a sustainable manner and to determine all by itself what forest sustainability actually means. It is not necessary to revise the Crown Timber Act in order to reaffirm what is so clearly and obviously the status quo.

Nor do I draw much comfort from the statement that "The minister cannot approve a forest management plan unless he or she is satisfied that it provides for the sustainability of the crown forest," which is contained in the third paragraph of the explanatory notes. I will challenge anyone to provide me with the name of one minister of natural resources in the history of this province who would have admitted that the forest management plan did not provide for the sustainability of the crown forest. Furthermore, this statement is not even factual. The CFSA may prohibit the minister from approving such a plan, but it can do nothing to prevent him from actually doing so, as the word "cannot" would seem to suggest.

It is the duty and responsibility of yourselves, as the elected representatives of the people of Ontario, to ensure that a piece of legislation that purports to provide for the sustainability of crown forests in Ontario actually accomplishes this goal. It is beyond logic to assert that the Crown Forest Sustainability Act, as it is currently written, does this.

The Minister of Natural Resources of Ontario already has at his disposal ample resources to establish forest sustainability in this province. The CFSA does nothing to enhance this power. From this standpoint, Bill 171 is quite redundant.

If the goal of the CFSA is truly to achieve forest sustainability, then Bill 171 must be amended to mandate such sustainability in the legislation itself. Otherwise, we face the certain prospect that whatever commitments are made to sustainability in the manual can and will be altered by MNR in the future without legislative recourse.

Earthroots strongly suspects that the motivation behind the NDP's initial approach to this matter had little to do with sustaining our forests and everything to do with cutting expenditures. It is no secret that the genesis of the enterprise was the government's desire to offload its current silvicultural responsibility on to the private sector. At his Toronto press conference announcing the CFSA, Howard Hampton explained that the advantage of the trust fund approach to funding silviculture is that the money placed in the fund would be out of the grasp of the Treasurer, and thus stumpage fees would be reinvested in our forests rather than absorbed into general revenue.

None of the reporters present followed up on this amazing admission of a failure to govern. Hampton had just confessed the government's inability to manage Ontario's forests without being forced to do so through the mechanism of the CFSA. If the responsibility for the funding of silviculture must be taken away from the government in order to ensure that it is carried out, then what does this say about the much larger issue of forest sustainability? It tells me that Howard Hampton was right when he said the government of Ontario needs the force of legislation to ensure that silviculture is funded. It also tells me that the government needs the force of legislation to achieve the goal of forest sustainability.

The silvicultural trust fund shuffle was effectively enabled by the passage of Bill 160, so it turns out that Bill 171 is redundant from this standpoint as well. What we are now left with is a piece of legislation that would appear to have no purpose. So why are we all here today discussing the CFSA when this act will not empower the government to perform any function that is currently beyond its grasp?

The only logical answer is that the NDP intends to ride into the next election proclaiming to have created forest sustainability in Ontario. A mailing to party members last February contained a list of accomplishments of the Rae government. The achievement of forest sustainability was somewhat prematurely on that list. It is the Rae government's plan, in which you, the members of this committee, are all playing a role, to claim to have accomplished the goal of forest sustainability through the passage of a hollow shell known as the Crown Forest Sustainability Act.

Earthroots and the Ontario conservation community have submitted to the minister a brief outlining the required changes to Bill 171. A summary of these changes is as follows:

(1) Currently the act does not define nor make reference to a definition of "forest sustainability." The world has spent the last 10 years developing definitions based on the biological imperative inherent in the concept of sustainability. It is almost unthinkable that an act entitled as this one is and dealing with a biological entity such as

forests could become law without such a definition.

(2) The principles of forest sustainability included in the Policy Framework for Sustainable Forests and approved by the Ontario cabinet are not included in the act, contrary to previous public commitments.

(3) The current wording of the act appears to constrain the ability of the Ontario government to settle aboriginal land claims, create new protected areas or recreational reserves, or designate crown land for other non-timber purposes.

(4) The transfer of responsibility for forest management and regeneration from the Ontario government to the forest industry will not occur under a clear, enforceable framework if this act is passed in its current form. Such an outcome will leave the Ontario public and the Ontario government at risk.

In closing, Earthroots demands that this committee not be party to a fraud. The Crown Forest Sustainability Act must be amended to protect our forest ecosystems and the biodiversity that comprises them. The Ontario Legislature must not pass into law a Crown Forest Sustainability Act that does not define and mandate forest sustainability.

Mr Hodgson: Thank you for coming in. I enjoyed your presentation, especially the last page where you ascertained that the only logical explanation of this—and that's been alluded to by a number of presenters—is of a political nature and has nothing to do with our forests.

Having said that, have you had any involvement with the drafting of this legislation or any of the workshops? We've had complaints that people weren't consulted enough. Were you in on any of the workshops that drafted the manuals?

Mr McDermott: I was at a two-day workshop about a month and a half ago on the manuals.

Mr Hodgson: Were your concerns addressed at that time?

Mr McDermott: In the sense that the first draft of the manuals contained almost no reference at all to any aspect of sustainability and the preservation of biodiversity and that the revised ones, which I've just gone through, at least mention these concerns, yes, there was some limited degree of movement. But as to how this is actually going to work in terms of standards and enforcement is all still very much a work in progress as it currently sits in the draft manuals.

Mr Hodgson: One of the concerns we have is that this could do us long-term damage if the substance doesn't meet the reality: that saying to the world that all the products coming out of Ontario are from sustainable forests, if that's proven to be not factual, could harm our credibility. Do you share that concern, or have you thought about that at all?

Mr McDermott: In a situation where you have the dominating legislation for how we manage our forests being this act and it being, upon examination, such an empty exercise as I believe it to be, in terms of how people from other countries, other jurisdictions, look at Ontario enforcing sustainability, it's going to be pretty difficult to look at this act and say, "Yes, this does it."

Mr Hodgson: You mentioned that a newsletter went

out suggesting that one of the accomplishments of the Rae government was forest sustainability. Did you ask anybody about what this meant, or did you just bring it to this committee for the first time?

Mr McDermott: We were aware that this act was in the works for some number of months, and back in February when it first came out in a newsletter it was, at least within the forest movement, an open secret that the Crown Forest Sustainability Act would be moving forward. We had no idea what its components would be, and in fact, at the time Mr Hampton first announced it in April, some of the principles put forward at that time gave us some cause for optimism.

Mr Hodgson: On page 2, you state in the middle paragraph, "It is no secret that the genesis of the enterprise was the government's desire to offload their current silvicultural responsibility on to the private sector." When you say it's no secret, do you have any cost analysis of how the ministry is going to save a lot of money out of this?

Mr McDermott: No, I don't have a cost analysis, to answer your question first. But you look at a pattern of where MNR's budget has gone over the last few years and it's been on a steady downward track. It doesn't take too much of a crystal ball gazing exercise to see that if MNR is not responsible for silviculture, this is going to represent some theoretical saving to the public purse.

Another concern that I didn't bring out in my testimony, that Chris Winter alluded to, is that of enforcement. Are we going to see yet another cut that would affect MNR's ability to enforce this legislation and enforce those agreements that are made with companies to take care of silviculture?

I don't think the way to preserve Ontario's crown forests is for there to be continually less MNR.

Mr Bill Murdoch (Grey-Owen Sound): Are you aware of community forest projects that are going on right now in the north, in Kapuskasing and Geraldton, different places?

Mr McDermott: To some degree.

Mr Murdoch: Do you agree with that concept, or do you have any opinion?

Mr McDermott: It's always good for people living in a community to be consulted about what's going on in their community. I deal regularly with the Temagami comprehensive planning council regarding the land use plan for that area.

Mr Murdoch: That was something set up by this government anyway, to let local resources be driven by the local people, and I noticed the last presenter was concerned that that wasn't included in this bill. I just wanted your opinion on what you thought of local people having more to say about some of the things that are going on in their community rather than everything being set down here at Queen's Park.

Mr McDermott: You could theoretically, from my point of view, carry it a step further and actually empower a local community to manage a forest base, with the idea that that clearly defined forest base would be something that theoretically needs to sustain them

generation upon generation. You might end up with some fairly interesting ideas coming forward on sustainability in that kind of circumstance. Prior to working on forests, I worked on the east coast fishery. Frankly, if the fishery had been under community control, I think we wouldn't have the crisis we have now.

Mr Murdoch: But Earthroots, the organization, is not opposed to the cutting of the forest.

Mr McDermott: No, our bottom line as an organization is that we want ancient or old-growth forests preserved and for us to manage those forests that we have already impacted upon.

1350

Mr Wood: Thank you for coming forward with your presentation. As I said to the presenter before, we're in the process of influencing public opinion, and one way of doing it is to bring this committee right around the province to northeastern and northwestern Ontario. Other ways of doing it are to hold press conferences and get the message out. I do it myself and every elected member does it to get their message out and try to shape public opinion as to what you would like to see. I'm aware of part of the discussion that took place this morning during the press conference.

Along those lines, when you're saying that budgets are being cut and there's less money being spent, we're aware that since 1989 the recession was coming and revenues were dropping off very seriously. This is one of the reasons the election was held in 1990 and we ended up with a new government, because of what was happening. As a result, we had to do the job the previous government would have had to do had it stayed in office for another two years or whatever, till the end of its mandate. But they decided to cut and run early, and as a result we ended up with a very tough time in the last four years.

Interjections.

Mr Frank Mclash (Kenora): Did the Chair hear that?

The Acting Chair: Order.

Mr Wood: When we're talking about sustainability, from what information I have, there's nothing new or magic about it. We had members, Floyd Laughren, for example, Bud Wildman, tour back in the 1970s and 1980s and said something has to be done about the forest. I've talked to the lumber industry. They're saying the timber act, 1952, does not work: "It's not working. We have to do something." These discussions have taken place over the last 15 years and pretty seriously over the last three.

I'm looking for comments from you. You're saying in one breath that the legislation should be scrapped, that we shouldn't go with Bill 171; and in another, some of your group, during the press conference this morning, said that if the amendments can be addressed, it shouldn't be scrapped, that it's a move in the right direction. That's the message I was getting from some of the presenters who were there. I just want to know if you want to comment further on some of the things I've said.

Mr McDermott: I'll stand by what I've said here,

that the bill as it stands is an empty shell and does not deserve to be passed. It's not that it represents a step backwards; it represents no step at all, that I can see. You can't, to my way of thinking, pass into law a Crown Forest Sustainability Act that doesn't stand back and say: What is sustainability, and since we're passing a law to mandate this, how do we then set standards and enforce it? I'm not saying this is something that's extremely easy to put forward, but it is something that if you're going to take that first step, logically you have to take the other ones as well.

The bottom line in terms of even our forests as commercially productive enterprises that you will get from talking to virtually anyone within the Ministry of Natural Resources is that we are continuing to have a decrease in the productive capacity of Ontario's forests. This act will do nothing that I can see on the face of it to turn that situation around.

Mr Wood: We probably can't undo all the damage that has been done in the last 50, 100 or 200 years, but the intention of the act is that as you harvest a hectare of land or change it in some way, it's going to be replaced and regenerated into the future. Trust funds are being set up to try to achieve this, and maybe somewhere along the line we might be able to pick up the backlog of the last 10 or 15 years that hasn't naturally been generated. Do you see this as a positive step in the right direction, that something is being done to try to sustain the forest, the water, the communities that are so dependent on the forests out there as an ecosystem?

Mr McDermott: When the first press material on the act came out in April, I was reasonably optimistic about some of the major components that were promised to be in the act. The maintenance of forest biodiversity was a key one. The commitment not to harvest forest types that wouldn't return to the same forest type is another one as well. These are all very laudable goals and certainly deserve to be in the legislation itself, because if you leave it to the minister's discretion, whatever commitment a particular minister takes will only last as long as that particular minister holds that office.

Mr Miclash: I'll try to be a little less partisan in my comments, as we are all trying to work together to bring the best possible legislation forward.

Dan, I was interested in what you had to say about this bill having everything to do with cutting expenditures. We've heard a good amount in regard to both the trust funds and the renewal funds, and I'm sure you've taken a look at those portions of the act. Could you possibly comment a little more on what you feel about those funds that are proposed in the act?

Mr McDermott: It's clear that the driving mechanism for the idea had at least something to do with reducing how much money the government had to commit to refurbish Ontario's forests. MNR has made larger cuts in silviculture than it has in other areas over the last number of years. This is something that was addressed on some level in the class EA. It's clearly a situation that provides us with long-term pain in terms of what is going to be the future of Ontario's forests, and I see that the idea of turning it over to the private sector had some compelling

arguments to be made in a time when dollars are tight. My initial concern upon hearing about this part of the program was, what's going to happen with enforcement? Is enforcement also going to be scaled back? You can't turn over this responsibility without, from my point of view, increasing the enforcement, not cutting it back.

If the Ministry of Natural Resources is just going to continue to be scaled back, and the ability to monitor what's happening in the forests of Ontario gets cut back along with the commitment to silviculture, what you have is a "Trust me" enterprise. My favourite quote of Ronald Reagan's was, "Trust but verify."

Mr Miclash: The other part of your presentation I want to go to is the third recommendation you make in the summary. As a member from northern Ontario I'm quite interested to know what you mean by "designate crown land for other non-timber purposes." What are you referring to there?

Mr McDermott: It would appear that once an agreement is entered into with a company to have stewardship over a piece of forested land for the period of the five years, it could bring an action against the government if the government suddenly withdrew a portion of that forested land for another purpose. There's certainly a legal opinion that says that as it's currently written that's possible.

1400

Mr Brown: Dan, it always strikes me as a little bit ironic that we sit in a committee room in the midst of one of the largest clear-cuts in North America.

Mr McDermott: I can see a tree out there now.

Mr Brown: A tree. That tells the story, doesn't it?

You raised some concerns that I think are fairly broadly based across the province and also almost regardless of what position you're coming at this from. I hear industry saying exactly the same things you are. My question is, does that make you nervous?

Mr McDermott: You don't have to be partisan to say this act has nothing new to it. All you have to do is analyse it from any perspective you care to. If there's something new here that I'm missing, would somebody please point it out to me?

Mr Brown: It's also been suggested to us by a number of presenters that if you replace the word "forest" in this act with the word "timber," it works; that it is just the Crown Timber Act and that what the ministry has really done is just gone through and everywhere there was "timber" in the old act wrote "forest," and now you've got it, it's now sustainable. Is that a view your organization would share, that really that's what we're still looking at, just a timber act?

Mr McDermott: Yes, and it particularly gets driven home when you look at the manuals that have been put together. They're just timber manuals. In the latest edition there is some lipservice paid to the preservation of biodiversity, indicator species, that sort of thing, but they are timber manuals.

Mr Brown: The comments about community advisory committees have been interesting. One presenter in Thunder Bay said to us, "The French Revolution had

community advisory committees and it didn't necessarily work out that well." We're a little concerned that there is no definition in this bill as to how people are appointed. Who's on these things? How does that get decided? I think whether a community advisory committee works will depend on who's on it. Do you have some views on who might be appointed? Is there some formula that your organization is putting forward to flesh that out for us? We're having some difficulty understanding it.

Mr McDermott: I'll say that I share the concern in terms of how people get appointed to these committees. With the one I deal with most regularly, the Temagami comprehensive planning council, I have some questions as to how some people didn't get appointed to that committee. This does cause me some concern, and I don't have any idea of how you would put together a formula, other than having an election, to get people on these committees, which would of course politicize the whole process and remove the basic idea that these are simply citizens who sit on them. I think they're going to be imperfect and there's a limit to how much you can fine-tune the fairness of getting people on them.

The Acting Chair: Thank you very much, Mr McDermott.

Mr McDermott: Thank you.

AD HOC COMMITTEE OF THE ONTARIO WILDLIFE WORKING GROUP

The Acting Chair: I call upon Derek Rice from the Ad Hoc Committee of the Ontario Wildlife Working Group. Good afternoon. You have half an hour for your presentation. Whatever time is left after you've made your presentation will be divided equally among the three parties to ask you questions.

Mr Derek Rice: I don't have much of a presentation other than the written document here. There are a few comments I'd like to make, though.

To begin with, I don't really feel that the act plus the manuals plus the regulations would equal sustainability. There is a definite need within this legislation to have an explicit definition of how sustainability can be defined or worked out in some way, and that doesn't exist. I think this is reiterated by the process. Within the workshops, within any of my meetings with the MNR people, there hasn't been any clear idea of sustainability. In fact, on several occasions the MNR staff have asked me and have asked other people what we believe sustainability could be. This just doesn't seem to be the proper approach.

When we're working out the idea of sustainability, it is essential that it come about through a planning process that involves both provincial and regional levels of this process, and this isn't at all within this piece of legislation. In fact, when I've asked the people in the MNR staff where the provincial guidelines are, where the provincial motion is, there isn't an answer, there isn't any idea of provincial outlook or anything like that. They've always directed me to one section of the manuals, "The Future" section within the Forest Information Manual, of what we believe forest sustainability shall be at some point. But if the idea of the future is essential to the idea of sustainability and to the idea of forest sustainability, we have to start looking at what we believe to be the

future and bring this into the legislation so that at some point we can have sustainability of the forest; not come up with a timber act, call it a sustainability act, and then at some point develop a future for the forest.

Quite clearly we are talking about the forests of Ontario; we're not talking about timber management in Ontario. If you replace the word "forest" with the word "timber," you do have a very strong act if you want to look at timber management in the short term. The only thing it's going to do is level forests in Ontario and replace what would be magnificent hardwood and deciduous stands of trees—we would be left with ash and poplar all over the place, which isn't what either the industry or the people of Ontario want.

The group I represent, which has come quite unanimously to agree with some of the comments I've made here, is made up of distinctly disparate groups. There are anglers and hunters, there are animal rights people. It's very broad-based. I think it's important that the people of the committee listen to this and understand that if there are these many people who are diametrically opposed on so many other issues but who agree upon this, that this act has no weight and no possibility of achieving sustainability in Ontario, then you quite simply won't. This is not a sustainability act.

A lot of the comments I've made here are taken verbatim from MNR documents and MNR information. The "Purposes" section in the beginning is from the Diversity document. It seems quite odd to me that the MNR would bring about a forest sustainability act and not listen to its own comments, not listen to its own workshops, to its own policies it's developed.

I have to apologize for not being too formal about this, but I just found out about the possibility of my coming to the committee on Friday. I would appreciate that you would look at the document I've presented to you.

Mr Wood: Thank you very much for coming forward. "Sustainability" is an expression that's been around for a large number of years, but it's been used more in the last while as we go through public hearings and the drafting of the legislation. I want to get how you feel sustainability should be defined in terms of the Crown Forest Sustainability Act, in the act, in the manuals. This act is replacing the Crown Timber Act of 1952, but it does not wipe out all the other acts that are there, the Game and Fish Act and various acts that are there right now. This in no way wipes them out, so they're also there and they're not being revised at this time. I just want to get feedback from you on forest sustainability. What's your definition of it?

Mr Rice: I don't think I'm willing to answer your question as to how sustainability can be defined. I think the importance is to understand how sustainability can be achieved in Ontario. That will not be done by this act and there is no provision for it to be done. There has to be a framework within the legislation itself, not the manuals, not the regulations, that must give people an incentive, give manual writers an idea of how they can determine sustainability within their management unit. There have to be measurable and monitorable aspects of the forest.

Mr Wood: You or your committee members have been involved in the drafting of the regulations, the manuals, I understand?

Mr Rice: Unfortunately, I was the only one who was at most of the meetings. There was another person from the group who was at the manual workshops in Toronto here.

Mr Wood: So you've been involved in the manuals in the first draft, the second draft and whatever, the manuals that are out there right now?

Mr Rice: Interestingly enough, at one of the meetings I had with John Osborn on the Forest Information Manual, one of the things he presented to me was some information he had that could measure and monitor the forest to get an idea of whether the forest was being sustained. Although it was a fairly limited sense of the forest—I mean, it's just trees, trees coverage, that sort of thing—I feel it's an essential part of achieving sustainability: Measuring it. But it seemed odd to me. Why would an MNR person be coming to me and telling me what he believes should be incorporated within the act? Why is it not already in the act? Why is it not already a part of the manuals?

Mr Wood: I know what we've been trying to achieve, going back four years now, is getting thousands of people, people from every organization, industry, and communities, involved in coming up with legislation that we're having public hearings on right now. There have been thousands of people who have been involved over the last few years in coming up with, and we're still trying to get, a definition of sustainability, and nobody—I shouldn't say "nobody." There are people who have come up and said, "I view sustainability as this—boom, that's it." There are other people who have said, "I don't know what it means" or "I don't know whether it should be in the act or in the"—we're going through the public process right now and trying to get feedback.

Mr Rice: The idea I'm promoting is that the framework for defining sustainability be in the act and that the actual definition remain in the manuals. The problem is that section 66 of the act does not explicitly require that there be a definition of sustainability within the manuals. It only requires that there be ideas or determinations within the manuals. That's extremely facile, if you ask me.

Essentially, in the "Purposes" section in my document, the idea I've drawn out leads to a framework for defining sustainability, and then the amendments to 66 would adhere to that and agree and require that in the manuals sustainability be explicitly defined at that point in time. And sustainability does not mean that there be extremely large, 200-hectare clear-cuts in Ontario.

Mr Gordon Mills (Durham East): Thank you for coming here this afternoon. I'm sitting on this committee and I've heard comment that I consider to be anti-government, that we're doing it wrong, we've got it wrong, we don't know what we're doing. We've heard that. Now I come to you and you're more or less saying the same thing.

One of the positions I try to do sitting on a committee

is to weigh the evidence I hear as opposed to what the legislation—so I can sort of understand it better. In order for me to do that, I want to know, what's your area of expertise? What weight should I be attaching to what you're telling me? Are you an expert in this? Where do you come from? What's your background?

Mr Rice: I come from Sault Ste Marie, Ontario. I've lived in northern Ontario all my life.

Mr Mills: Yes, but what do you do? Do you study this? Have you studied? Have you got some degree in forestry management, or are you just a Sault Ste Marie resident who's interested in forestry?

Mr Rice: No, I have a strong interest in animal issues, I have a strong interest in forestry. I've worked in the forest industry in Sault Ste Marie. I have a very good idea of what forestry is in northern Ontario.

Mr Mills: Are you a forester?

Mr Rice: No, I'm not.

Mr Mills: Have you had any training, educational background in this matter?

Mr Rice: I haven't had any education in it, no.

Mr Mills: None. Thank you.

Mr Rice: May I make a comment? As a citizen of Ontario and as someone who partakes in the forest, I have a very good idea of what the forest is, and I think that in itself qualifies me to understand what non-timber values are and what the forest is. The forest is not simply the trees, the megafloora. It's much, much more than that. If I have an idea of that, I think I have an idea of commenting on what would be a forest sustainability act, so I don't think you can simply disqualify me because I don't have an education as far as the forest goes. I have an education of how I use the forest and I have been—

Mr Mills: I never disqualified you. I'm just trying to assess the impact of your testimony.

Mr Michash: Derek, just following up on what Mr Mills has said, he actually touched on a question I was going to ask in terms of the committee you represent and what the mandate of that committee is, where the members are coming from.

Mr Rice: The mandate of the committee is basically to develop policy in Ontario as far as wildlife is concerned, wildlife meaning everything—plant, animal—in the environment. That is an essential part of it. We have been given the opportunity by Howard Hampton himself to partake in this process and that's why I am here.

The offer being given to us to join in this process seems kind of backwards, in a sense. All we have done has been undertaken through MNR auspices, so MNR has always been aware and in fact has published most of the documents. It seems backwards that they've helped us along yet they're not including it within most of their legislation. There's an idea of what policy should be as far as wildlife is concerned and as far as that relates to forestry, and once again it's backwards: We've developed it with them but they haven't listened to it, haven't taken it into context.

Mr Michash: I think where we're getting a little bit mixed up is in terms of the actual makeup of your

committee. How did it come to be and what is its actual mandate? How did your committee form? Numbers? Who's involved?

Mr Rice: Essentially to develop policy, as far as the ministry goes, towards wildlife, to conserving wildlife, in a sense. There are several different groups I could list. There are MNR people, the Ontario Federation of Anglers and Hunters, that sort of thing. There are foresters, hunters and trappers.

Mr Miclash: So this is an actual group that meets on a regular basis?

Mr Rice: Yes.

Mr Miclash: That leads to my next question. Section 12 of the bill talks about local citizens' committees. As we've been travelling around the past weeks, we've been asking the various people who have presented about what they would see such a committee comprised of, the mandate and the make-up of such a committee. What are your views on that?

Mr Rice: One of the things I presented when I was at the manual workshops was some of the progressive moves made by the Ministry of Municipal Affairs, as far as it goes, to local citizens' committees and that sort of thing. Within the Sewell commission document, its final report, there are some very powerful statements made about how we can develop local citizens' committees to make them more substantive in Ontario. These sorts of things need to be looked at and made harmonious with this piece of legislation. But that's a really minor comment, as far as it goes, in terms of developing sustainability in Ontario. We have to start with a provincial idea and work downwards.

Mr Miclash: So you're suggesting they wouldn't be as important as the provincial umbrella group would be, in terms of the citizen committee?

Mr Rice: No, I don't think they would play any less of a part. It's just that right at the moment, what's not getting enough attention is the idea of a provincial outlook. The citizens' committees are fine and they are necessary in achieving sustainability in Ontario, but there needs to be more attention paid to the provincial level.

1420

Mr Murdoch: To get back to the question that was asked by Gord and Frank, your working group is made up of Howard Hampton's—you're basically working for the ministry, is that right? How did you get on the group? Who do you represent, to get on the group?

Mr Rice: No, I don't think we're working for the ministry. I would say we're working for wildlife in Ontario.

Mr Murdoch: Okay, but the group is set up by the ministry.

Mr Anthony Perruzza (Downsview): Oh, come on. It's a real fishing expedition you're going on.

Mr Murdoch: I just want to know. It was a very good question, I think. Why did you get put on the group?

Mr Perruzza: The question really is, "Has the NDP set you up?"

The Acting Chair: Order, please.

Mr Murdoch: I don't care about the politics. I just want to know, what group did you come from, to get on the working group?

Mr Rice: Unfortunately, I would like to not care about the politics, but I do in that I think he's right in saying that you are leading me up to the idea of, does this validate or legitimize the NDP's role in—

Mr Murdoch: Unfortunately, he's not, but if you want to carry on, we can do it that way if you want. Who do you represent, to get on the group?

Mr Rice: I work for an organization called Animal Alliance of Canada.

Mr Murdoch: That's all I wanted to know.

Mr Rice: Through Liz White, who is a member of the Ontario Wildlife Working Group, I joined the ad hoc committee.

Mr Murdoch: That's what I wanted to know. I don't care about the politics.

Mr Rice: I think the politics is important because—

Mr Murdoch: Well, no. I'm not going to ask you what party or anything like that. That was the question I wanted to ask you.

From some of your comments earlier, you're not overly enthused at the way they manage forest management now, the companies and the way they cut timber now, is that right? You mentioned something about clear-cutting and things like that.

Mr Rice: That was just a minor comment. I don't necessarily agree that the companies are as ill as we think they are. The people I spoke to at the workshops have a very good idea of the need for sustainability of the forests in Ontario.

Mr Murdoch: You said you're from the Sault, so I assume you've been out in the forest where they have clear-cut and then replanted, reseeded. Do you know their methods?

Mr Rice: Yes.

Mr Murdoch: Do you agree with those types of methods?

Mr Rice: Not necessarily. No, I don't.

Mr Murdoch: That's getting into forest sustainability, so what would you do differently? You wouldn't clear-cut some of those stands where there is a lot of black spruce or poplar? How would you manage those stands? I'm just interested because you're on this committee.

Mr Rice: I'm not saying that clear-cuts should be illegal in Ontario. I don't think they're very visually attractive, I don't think they're at all essential for the forest and I think that's a very poor way of managing the forests.

Mr Murdoch: Do you have an alternative?

Mr Rice: An alternative to clear-cutting?

Mr Murdoch: If you've got a stand of black spruce or poplar, how would you go in and pick out certain trees and cut them and not pretty well clear-cut? How would you do that stand any differently?

Mr Rice: There are different methods of forestry

other than clear-cutting. Shelterwood operations, selective cutting, that sort of thing works very well.

Mr Murdoch: When you have a whole area of, say, black spruce only and they're all approximately the same size, you don't agree with just clear-cutting that and reforesting. You'd cut one here and one there.

Mr Rice: It seems very odd. Why is it that you would go out and find a forest that would all be level trees? It doesn't seem quite clear to me.

Mr Murdoch: But there are a lot up there like that.

Mr Rice: That's probably because that's a cause of second-growth forests.

Mr Murdoch: Third, maybe.

Mr Rice: Yes. So the problem was in the beginning, cutting the forests in such a haphazard way without a clear vision of the future.

Mr Hodgson: You mention on page 2 of your report, section iv, that "Forest ecosystem types should not be candidates for harvest where this practice threatens or jeopardizes their long-term health and vigour." This goes to the essence of the measurable quality of an ecosystem. Do you feel there are enough scientific data available to define ecosystems and their connection to one another?

I use an example you might be familiar with, down in the east coast fisheries. There is a relationship between the harp seal population, for instance, and the cod stock. This spring the federal government has allowed the reopening of the hunt and harvest on harp seals because it felt, obviously, that that had a depleting factor in the cod stock. It's not mentioned very much in the media, but it's reopened again.

Would we not be opening ourselves up to similar mistakes in the future if we said this ecosystem is going to be sustained and that then had a detrimental effect on the sustainability of, in the east coast situation, the jobs those people worked at? We banned the hunt and now there's no jobs left in the fishery industry.

Mr Rice: The idea of the forest is that it's an all-encompassing ecosystem that includes all that is in the forest. It doesn't just speak of the trees in the forest.

Mr Hodgson: I realize that, but do we know enough yet to define the ecosystem that you want to protect and the connection of it to another ecosystem?

Mr Rice: Sure. It basically states that 85% of Ontario is a forest ecosystem. There are other ecosystems within the province, but, for the large part, that is Ontario.

Mr Hodgson: Let's say we have an ecosystem of some type of fungus and you want to sustain that.

Mr Rice: An ecosystem isn't necessarily always based on one specific species.

Mr Hodgson: Okay, a component of an ecosystem, and you want to sustain that. Is that where you're going with this, to define that? Measure it and have a base—

Mr Rice: No, there are other ways of doing it. You can include other species by monitoring the larger species. That is possible. I don't know if it's really valuable, but it is possible, sure.

Mr Hodgson: I'm just getting at, how would you

manage that if you include section iv, where you said, "Forest ecosystem types should not be candidates for harvest where this practice threatens or jeopardizes their long-term health and vigour"? An ecosystem type, other than just trees, could be mosquitos. We had one presenter who said it could be black flies. In the day-to-day management within MNR, if a forest company wants to cut the trees off a piece of crown land, would you suggest we have it defined right down that we're going to protect the black fly culture in this area? How do you work with this if it's to be included?

Mr Rice: Because there are other statements here. It's an idea of maintaining levels of populations and levels of the ecosystem. There has to be a representative basis. Obviously, we need to extract resources from the forest. That's something we agree upon or we wouldn't be here. With that in hand, we need to maintain a certain level of tree coverage, we need to maintain a certain level of fungal growth, a level of mosquito and black fly populations. There has to be a level, and that must be achieved through a provincial vision and a local idea, a local quota, so to speak.

Mr Hodgson: So you would see an inventory developing that you could measure this from.

Mr Rice: There actually exists right at this time an inventory, as far as that's concerned.

Mr Hodgson: There is?

Mr Rice: There isn't an explicit inventory, as far as it goes, for measuring fungus in Ontario, but there is a way of inventorying what is in the forest.

Mr Hodgson: My understanding is that we're just doing the scientific studies, for instance, to ascertain the relationship between moose populations and forest rotations. But you're telling me that that's been done and there is an inventory?

Mr Rice: No, I'm not saying there's an all-encompassing inventory as far as the forest goes. But there are things that exist right now that we can work upon, that at some point in the future we can achieve that level of inventory.

Mr Hodgson: That's what I'm getting at. Do you see this bill hampering that process?

Mr Rice: Sure, 100%.

Mr Hodgson: It's hampering it 100%?

Mr Rice: Yes.

The Acting Chair: Thank you very much, Mr Rice.
1430

ANIMAL ALLIANCE OF CANADA
ANIMAL PROTECTION INSTITUTE

Mr Barry MacKay: Mr Chairman, members of the committee, my name is Barry MacKay. I am here somewhat unexpectedly. Liz White, who I am not, was going to make this presentation to you.

Just to confuse you utterly, I'm a member of the Ad Hoc Committee of the Ontario Wildlife Working Group, as is Chris Winter, who first addressed you this afternoon. It is a committee that produced this document which, if you haven't seen, I certainly recommend to you. If you're nice to Mr Peter Evans, who's sitting behind

me, he might be able to produce copies for you; I don't know. At any rate, it's something that was put together with consultation over a number of years between members of the Ministry of Natural Resources and all kinds of interest groups and players and so forth.

I came here expecting to address my presentation, which I hope has been distributed to you, that was prepared by my colleague Liz White. But I'm also a journalist. My background, my interest, is in wildlife, particularly international trade in wildlife. This brings most of these issues more to the national or to the federal level, and our commitment to sustainability and our commitment to biodiversity, which I hear about quite frequently, particularly at conferences of the Convention on International Trade in Endangered Species, which I go to as an NGO. Forestry is certainly a part of that. I consider trees to be wildlife, it's true, but I admit that my background is more involved with animals.

That's why I just want to deviate momentarily. I didn't expect to be talking about this, but the seal hunt never did end. The government has regulated a 180,000 quota for years. There was a ban on the importation into Europe of one age class and I think that's what you're referring to, but it was never a ban. Harp seals are not eaters of cod fish; they eat very, very few, in fact, and not during the breeding range. A species that does eat cod fish is the grey seal. The grey seal was thought to be extinct in the 1940s; it has come back, but it has come back to a level much lower than what presumably was its primal level, although usually we don't have benchmarks for this sort of thing. I just point that out because there's a lot of confusion about it.

Interjection.

The Acting Chair: This is not the time to ask questions.

Mr MacKay: He brought it up and—

The Acting Chair: Please just make your presentation and ignore the questioner.

Mr MacKay: I have this sort of congenital thing that I don't like to see misstatements just lie there.

Mr Hodgson: That's fine with me, Mr Chair.

Mr MacKay: I must be honest that actually I heard about this act from Mr Hampton himself in mid-May, when he met with the members of the Ad Hoc Committee of the Wildlife Working Group just across the road from here and essentially said to us, "Look, I think some of the concerns you've brought up are addressed in this act we have." It was the first I'd heard about it, and I must confess that when I heard the name of it, I thought: "This is good, sustainability is good. That's a good word, a nice word, and we like that." I assumed I would be supporting the act and I assumed that that's what Mr Hampton wanted not only myself but all of us as the committee to do.

I will defer to the people who have spoken before this afternoon and their greater expertise in this area, who have said that this is either equal to what we have, neither better nor worse, as I think Mr McDermott said, or those who have even said that perhaps in some respects it's worse. I think it's six of one, half a dozen of

the other, that there's some good stuff in here that the former act doesn't have and vice versa, so it's a question of whether there's any actual material gain in the act.

But I would say I'm profoundly disappointed in it. It simply doesn't deliver. We can debate what we mean by "sustainability," but there have been lots of definitions of it. From a philosophical or purist position we might say there is no such thing as sustainable forestry, but on the other hand I'd be the last one, because like everybody in this room I am a consumer of forest products, to say that we therefore shouldn't have forestry. Of course we should. It's essential to this province. Therefore it must be sustainable. If there is a crisis, the crisis was created by the status quo, so therefore I think there should be a challenge to the status quo, a productive challenge, a challenge that is in the interests of allowing us to utilize our forests sustainably. I think these commitments to sustainability and biodiversity are good ones and I just don't see them in this act.

I will go through what I've written. We have recommendations. I'll start on page 2.

(1) To replace current wording under part I, section 1, entitled "Purposes" to read:

"The purpose of this act is to provide for the sustainability of crown forests, and in accordance with that objective, to manage crown forests with the following principles," and these come from what I understand to be government policy. I won't list them, (a), (b), (c) and so on; they're listed on the text in front of you.

Part I, section 2, Definitions:

(1) To amend the "forest ecosystem" definition to read:

"Forest ecosystems, while dominated by plants called trees, also include"—and these are all the other components of the forest environment that we're familiar with to a greater or lesser degree. When I say that, I mean quite sincerely that there are some of us who have never professionally—I have cut down the odd tree but I've never been paid for it. Nevertheless, I would argue that my knowledge of some of the elements of the forest are greater than those people who do get paid to cut down trees.

(2) To add the following definitions: an ecological region, a forest ecosystem unit, and a natural forest.

Under part II, Management Planning and Information, subsection 8(2), what the bill says now is:

"The minister shall not approve a forest management plan unless the minister is satisfied that the plan provides for the sustainability of crown forest, having regard to"—again, all these good things—"plant life, animal life, water, soil" etc, and including social and economic values.

Due to the discretionary nature of the proposed act, this section does not ensure that the forest management plan will actually result in sustainable forestry practices. Therefore, we suggest the following wording:

"The minister shall not approve a forest management plan unless the plan provides for the sustainability of the crown forest, in accordance with the following strategic objectives"—again, as had been outlined in what we had hoped was policy and had been told was policy:

"to ensure that current biological diversity of forests is not significantly changed and, where necessary and practical, is restored"—that's something that's been discussed earlier today;

"to establish and maintain representative, protected forest lands, as part of Ontario's natural heritage; and

"to manage the forests of Ontario to conserve and enhance the quality of water, air and soil."

Subsection 14(3): We're recommending that subsection 14(3) also be tied to sustainability by amending the wording to read:

"The minister may approve the work schedule, reject it or approve it with modifications as may be made by the minister to"—and these are our words—"ensure the sustainability of the forest operations in the management unit."

Subsection 17(1): We recommend that subsection 17(1) be amended to read:

"The minister will require the holder of a forest resource licence to conduct inventories, surveys, tests or studies in accordance with the Forest Information Manual."

The conducting of inventories, surveys, tests or studies must not be left to the discretion of the minister. A critical part of determining sustainable forestry activities will be based on the information collected from the inventories and other forms of data collection. That seems pretty straightforward.

Part III, Forest Resource Licences, subsection 26(2): There are several problems we have with this section, and therefore we recommend that it be amended to read:

"The minister may in writing direct that subsection (1) does not apply to a forest resource licence if the term of the licence does not exceed one year and the total area covered by the licence does not exceed 25 hectares and there is only one licence of this type held by an individual or corporation."

We would suggest that this section be further amended to show that 25 hectares may have different values or significance in different areas of the province. For example, 25 hectares of crown forest in southern Ontario may be considered a significant forested area as compared to the same size in the north. As a result, we recommend the following addition:

"The minister may grant exemptions for parcels of crown land that are 25 hectares or less provided all the requirements listed in 26(2) above and all other criteria for sustainable development are met."

There is a species of vole in this province called the pine vole, but it actually lives in Carolinian forests; it's a misnomer. I believe it's listed as endangered, and 25 hectares of good Carolinian forest is essential to that species, and that species' existence is essential to biodiversity if we mean it when we say we are committed to biodiversity.

Subsection 27(3): We are requesting that this section be amended to establish some criteria for granting such exemptions. We're not quite sure—I mean, this has come upon us quickly enough that it's hard for us to figure out

just exactly how to do this. Maybe it's by forest definition type. But something should be done to address this concern. The section, as it's now written, is open to potential abuse.

1440

Part VIII, Miscellaneous, subsection 66(2): We recommend the following amendments:

"(2) The Forest Management Planning Manual shall contain provisions respecting,

"(a)" fine, no problem with the wording there;

"(b) forest management objectives that provide for measurable and monitorable"—I love that word—"assessments of forest ecosystem sustainability that include:

"(i) a level of harvest that provides a non-declining flow of volume of each harvested forest resource in perpetuity;

"(ii) maintenance of the relative abundance of all forest ecosystem units within the forest management unit. These forest ecosystem units will reflect those found in the natural forest within the ecological region where the forest management unit is found;

"(iii) distribution of these forest ecosystem units in a landscape matrix reflective of the natural forest of the ecological region where the forest management unit is located;

"(iv) maintenance of a forest age class distribution reflective of the natural forest of the ecological region where the forest management unit is located; and

"(v) maintenance of all wildlife populations at the levels found in natural forests of the ecological region where the forest management unit is located."

We urge you to amend Bill 171—you notice we're not saying dump it—to ensure that the government's policy for sustainable forestry and ecosystem approach be reflected in law. If the amendments are not adopted, we urge the committee to defeat the bill.

Of course, before I ask you to ask me questions, which I probably can't answer, let me point out that I can remember going back to another piece of legislation, the Game and Fish Act, and we ran into a real problem, "we" being the Ministry of Natural Resources, if I may speak on its behalf, in that they thought it said a certain thing, and a Supreme Court of Ontario decision decided that it didn't say quite what we had thought it meant all along, and a case that had been brought to the courts by the ministry got thrown out, went the other way.

After that, I don't know if that was the catalyst for this kind of wording or not, but people who worked for the ministry were telling me: "Oh, you've got to go the way of regulations. You don't want to tie yourself in too closely." I respect that, I honestly do. But I suggest there's a compromise between the one extreme on one hand and the other extreme we have with Bill 171 on the other. That's my concern. It's not dogmatism. I'm not saying that every single one has to be dotted in terms of what this absolutely and rigidly says. But at least let's have something we can work with both in terms of, as has been said, identifying what it is we want it to do and then the means by which it can be done.

Mr Brown: Mr MacKay, thank you for a very informative presentation. You've echoed the views of quite a number of groups that have come before us. But the question I want to ask you—you just mentioned the Game and Fish Act, which I believe has probably been kicking around this place in terms of having a revised act since the early 1980s. The revision to it had first reading some time ago here—

Mr MacKay: Bill 162?

Mr Brown: —Bill 162, then it seems to have gone the way of the dodo bird.

Mr MacKay: It's on a shelf somewhere, yes.

Mr Brown: What my question really relates to is that we talk to forest sustainability, and when you talk about forest sustainability, you are talking about fish and game, talking about a lot of things that aren't really encompassed.

This act, as it's presented to us, to me says timber management. Everything about this says timber management. It doesn't say forest management; it says timber management. It ignores the other values and the other interests that may be in the forests, which would quite legitimately be done if you were talking about only timber management.

Would you prefer an act that would include the various elements of the forest altogether; this combined with the Game and Fish Act and some other acts, the Provincial Parks Act and other acts that relate directly to the forest? Certainly our provincial parks are mostly forest, for example. This doesn't include that and yet we're hoping to sustain those, I presume, also.

Do you have some views on how that could be accomplished? That would be a most ambitious task, I understand.

Mr MacKay: I find that I learn more when I'm listening than when I'm talking, and I heard somebody make the comment that you just made earlier—I thought maybe it was you—that if you substitute the word “timber” for “forest” you kind of have what this act is really about. But I just take the view, as what I hope is a pragmatic consumer as well as a conservationist, that ultimately they all do come together. We can't have forestry, we can't have timber and we can't have log cutting, whatever you want to call it, if we don't have it sustainably, and that does include all the other values which may either directly or indirectly lead to the sustainability of the things we've mentioned, be they watersheds or fresh air or oxygen production, whatever. Ultimately, we can't have it.

Somebody made the comment about sitting in the midst of the largest clear-cut around for a long time. Right. You again—very good and exactly right, I mean dead on. But I can remember two years ago being in montane rainforest in Borneo in a national park and having the disconcerting experience of stepping out of the edge, literally. I came to a boundary. I took three or four feet of a step, broke through the vegetation and found I was facing nothing but empty fields. That is a clear-cut, and it is one that is deleterious to the interests of the people in that region.

The situations I've experienced in other areas of the world are, granted, in many respects worse than what we have here. I don't want them to get there. That's my concern. As I said in my opening remarks, it may be that we could argue in a theoretical, purist way that removing a single tree is a sustainably incorrect thing to do, sort of the biological equivalent of a politically incorrect statement, in that that tree contains nutriment that are therefore deprived from the forest—they've gone—which would never happen in a normal forest ecosystem even if it is subjected to forest fire. It doesn't happen.

But we on the other hand—hey, I use paper all over the place, I use forest products, I live in a house that has a lot of wood in it, so I understand. Between these extremes we have to be pragmatic. But if we aren't, if we don't come up with something that's workable, then we are going to lose what I need as a person who lives in this society, as well as what the person who cuts down the tree and makes a buck off it also needs. We need those forests and we're going to lose them. So I don't make that distinction that clearly, or I wish we didn't make that distinction that clearly.

Mr Brown: Something has been brought before us by several presenters over the last couple of weeks. We all know that the forest companies and the forest company employees are significant revenue sources for the provincial government. We have area charges, which you're aware that everyone who is harvesting on land pays. We have some suggestions that those who pay call the tune and that perhaps it would be better for some of the other users to be paying some of the share of forest management. I wonder what your view of that might be.

Mr MacKay: I think that may be absolutely unavoidable, sir. As any resource that is used diminishes, the cost of it goes up, and if a percentage of that cost is in tax, for example, goods and services, provincial sales, whatever, that's inevitable. That's what I'm saying. We're trying to avoid crunch time. If you're asking me—I personally don't make a cent from cutting down trees. One of the reasons I'm here is because our resources are non-profit, in some cases charitable NGOs—Animal Alliance of Canada is not a charity, it's a non-profit, but other organizations I represent or that actually pay me money—because my work for Animal Alliance is voluntary. I have very, very limited resources compared to some of these forest companies, and if you suggest otherwise—obviously, you're not that naïve. But am I willing to pay? I don't think it's possible for me not to pay as a consumer and as time goes on.

Mr Brown: There's a term called the “commercial forest” or the “industrial forest,” and the argument is that the forest companies should pay the area charges on that, but on the others that are not available to them, they shouldn't have to pay for that land. What's your opinion?

Mr MacKay: You're coming at me with a question that I haven't previously considered, and I'm not the kind of person who just likes to talk to hear myself talk. But I can tell you my intuitive instincts are that, yes, we all should. I can't conceive that you're suggesting to me that forestry can occur in one place and not have an influence in another place that is adjacent to it or even some

distance from it. This is particularly true as we recognize such long-term problems as global warming and ozone depletion. We're all part of it.

1450

Mr Hodgson: Thank you for your presentation and for your clarification at the start; I really appreciated that. Your view of sustainability is one that I think there is a consensus on: "A level of harvest that provides a non-declining flow of volume of each harvested forest resource," that you somehow find that balance between sustaining the jobs that are directly related to the forest industry and sustaining the forest as an ecosystem.

There's no magic wand you can wave over it, but you've had a lot of involvement with working with different groups to get consensus. Do you think there would be a consensus for your recommendations—I'm referring to page 5—on "Miscellaneous," under section 66, the manuals. This is more than just motherhood when you're putting in (2)(b)(i), (ii) and (iii). Some of the other reports—you've included a couple at the back—there's a consensus on because they've never actually come anywhere close to a specific definition. But you've got one here that can be measurable.

Mr MacKay: I'm sorry. Your question is?

Mr Hodgson: Do you think it's workable?

Mr MacKay: It's a good question. When I read this before coming down here, because I didn't write it, when I heard it first given to me over the telephone verbally and then read it when it came over my fax machine, I thought, as a writer: "This has a really nice flow to it. It sounds great. Is it workable?" My first thought was that perhaps it's incredibly naïve, but my second thought, my follow-up thought and the one I'll leave you with is that we have to. I think that's the thing that we have to come to grips with.

It may be that we can't do it the way we're used to doing business, in the same sense that it may be that the amount of money I pay for a litre of gasoline is artificially low, however much it pains me to say that, when I pay up. It may be that we have no choice but to recommend that we've got to come as close to these idealistic recommendations we put down as is humanly possible, because we have to look at what happens if we don't. Ultimately, it's the loss of the resource.

It's been identified to me again and again, and it's been admitted at this committee level, that there is a crisis situation in the forest. Now, I didn't say that. I haven't gone and measured things and come up with that as a report. Others far more knowledgeable than I say that. If it's true, something's got to be done to change that.

Mr Hodgson: We haven't got a definite answer on that. We're hearing two different stories on just the volume that exists in the forest.

Mr MacKay: A friend of mine, in fact a professor who's an expert on harp seals, stated to me, because he is a professor, that if you do have two different answers to the same set of data, you don't have enough data. That's part of the problem we're dealing with. Somebody made the statement again that this whole issue is so

overwhelming, and it is. It doesn't mean that we shouldn't try to address it. In fact, I'd argue we must address it. Your point's well taken. I'm sure you've had the same data interpreted two different ways. It's not an unusual phenomenon in science.

Mr Wood: Thank you very much, for coming forward with an excellent presentation. I see from the brief that you're delivering the presentation but Ms White was involved in drafting it. I understand that she was involved in the development of the manuals during the month of July. Were you involved in the manuals as well?

Mr MacKay: Yes, she was. No, I was not. In fact, that's a disappointment to me. My initial plan had been to. With the period that was open to me, it wasn't workable.

Mr Wood: You're saying that your background is that you're a journalist?

Mr MacKay: I wear so many hats, it gets depressing sometimes. I write a weekly column for the Toronto Star and I do other freelance writing from time to time, usually on environmental, ecological or animal protection issues. But I also work part-time for the Animal Protection Institute, which you see is the cosponsor of this brief. Their organization is based in the States, but it's the only one that actually pays me. I also am a director of Animal Alliance of Canada. That's a voluntary position. I'm also a director of Zoocheck Canada, and in that capacity I serve on both the Ontario Wildlife Working Group and now its ad hoc committee.

Mr Wood: In Mr Brown's questions, he would like you to believe that if you change the word "timber" in this act that nothing else has changed; this is the impression. In section 13, there's a large number of new provisions in the act that were not covered under the timber act of 1952, for forestry management plans, provision for a fining system for companies refusing direct orders, if they're going to be out there deliberately destroying animal habitat or fish habitat or things of this kind. There's clear provision in there for third-party licensing now, which was not covered under the timber act. I believe in section 14 there are a number of new sections. I wouldn't want anybody sitting in the audience or you to go away from here thinking that if you just change the word "timber" to "forest," there are no changes.

There are major changes trying to address things like sustainability, the communities, the jobs, the industry that's there into the future. People are telling us that the Crown Timber Act, 1952, does not work, doesn't work any longer, that something has to be there. I'm just wondering if you could tell us if your version of sustainability, for example, is defined in the manuals, which are binding on the crown because of the regulations which tie them to the legislation. I'd just like to hear a little more from you on that.

Mr MacKay: The first question, that has been asked again and again, is first define what it is that you're trying to obtain, define, if you will, "sustainability," or, if you prefer to look at it a little bit differently, try to define the objectives of sustainability, and then you look at the regulations and say, "Do they do that?" In fact,

what has been said to you here today by previous speakers is, must they say that? In other words, is this a discretionary thing or is it essential that they do say that? That's what my concern is.

I can't tell you how to do it in the field. I defer to other people who have greater knowledge of silviculture than I ever will, although I will say that in my various and eclectic experiences I have seen other forestry models than the ones that are practised here, ie, those that come from Europe. At least they interest me and intrigue me, but I lack the expertise to say if they are working as well as they look to be working.

There's a gentleman at the Peterborough crown and game—no, what is it called? Peterborough something or other. At any rate, he's trying on his little plot of land to forest in an economically viable way that is also in a sustainable way. He showed me what he did, and it certainly looked like a big improvement over what I've seen of clear-cutting in northern Ontario. But I would defer to somebody such as Professor Aird or the previous speakers on points of how you do it. I just lack the expertise; I'd be misleading you if I suggested otherwise.

Mr Wood: One of the aspects of the new timber act is saying that there's a bunch of trees out there, and if you don't have a plan for what that's going to look like in the future, you're not going to do anything with it. That is basically in the act now. I just wonder if you have a comment on that. It's not in the other act and it's in the new act.

Mr MacKay: That pleases me. It still doesn't say what that plan should define. I don't mean to be facetious, but what happens if the plan shows a bunch of stumps afterwards? It's got to meet an objective. That's what our concern is.

Mr Wood: Sustainability and regeneration and reforestation.

Mr MacKay: Yes, as we have been discussing sustainability all afternoon. One of my concerns is that we get into the sort of situation where we look at sustainability in terms of maintaining sustainability of profit. In other words, sustaining the same number of dollars per unit of land in perpetuity over a time frame that allows those trees to grow back. That's not how I see sustainability, because it's a false economy. Eventually, you're going to feel the crunch of not looking after the other interests that were in there. I think, Mr Chairman, I've run out of time? Right.

The Acting Chair: Thank you very much, sir.

Mr MacKay: Thank you.

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FEDERATION OF ONTARIO NATURALISTS

Mr Chris Lompart: My name's Chris Lompart. I'm with the Federation of Ontario Naturalists. We're a non-profit organization. Our mandate is essentially the protection and increased awareness of Ontario's wildlife and natural heritage. We represent about 15,000 direct members and 73 affiliated clubs and organizations. We've been around since 1931, so we do have quite a history. In terms of forestry issues, we've been directly involved for quite some time as well. We were an intervenor in the

class environmental assessment through the Coalition of Forests for Tomorrow.

I've provided two different pieces of paper for you. One is the direct submission of the Federation of Ontario Naturalists. The other one is a submission from a number of organizations; they're listed at end of it on the final page. The FON submission is directly in line with this other submission; this other one has the consensus of all these organizations. I'll be presenting the FON submission, but they are essentially in line with one another.

Our principle concern is over the sustainability issue, as you've heard from just about everybody else who's presented to you. Part of the problem with approaching sustainability is that it means so many different things to so many different people. From an economic perspective, you're looking at sustaining the amount of dollars that are going into different coffers and the amount of business that's been generated out of the forest resources. From a community perspective you're looking at jobs, you're looking at recreational opportunities, you're looking at a number of things. Then there's the ecological perspective, which is sustaining the types of species, the wildlife, the trees, the way they're distributed on the landscape, their age, class, distribution and that sort of thing.

But consistent with all of these is that sustainability is something that is long-term. In most senses, people think of sustainability as something that's in perpetuity, you're maintaining something essentially for ever. In doing that, you shouldn't be hindering the opportunities for the future. If 50 years from now somebody feels there's incredible opportunity for black spruce doing something, the forest should be in such a state that we could take advantage of that opportunity. In terms of sustainability, there are those two prime, basic components, that is, that it's over the long term, and over that long term you're not hindering the future.

We're concerned more with the ecological perspective, and most of my comments deal particularly with that.

The Crown Timber Act which is in place right now deals with sustainability through sustained yield. Sustained yield is a very basic principle to sustainability; you don't get more basic than that. It's basically saying that you should be harvesting at the same rate as something is regenerating. That is as basic as it gets. As you know, that has been taken out of the current act we're looking at. As I said, that's the most basic principle. We've gone light years ahead of that. That principle's been around for 30, 40 years.

In terms of ecological sustainability, I think biodiversity is the principle we should be concerned with the most. Similar to what I mentioned before, that implies maintaining the species, maintaining their distribution, their relative abundances, their age class distributions. That's a little closer to where we are today. There's still a lot of research going on in that respect, but that is getting a little bit closer.

Basically, in terms of ecological sustainability, you should be harvesting at a level which can be sustained in perpetuity and you should be replacing what is harvested. In doing that, you would be looking after biodiversity, to a large extent. Currently, this isn't the way the forests are

managed in Ontario. There was an audit in 1992 which very clearly outlined that what's being harvested isn't being regenerated, and there's been very little done since then to ensure that.

Another document which has been brought up quite often and does outline principles for sustainability is the Diversity document, which was the basis for the Policy Framework for Sustainable Forests, which, as you know, is a cabinet-approved policy. The Diversity document was developed in consultation with upwards of 3,000 people. As far as I know, that's more than have been consulted for pretty pretty any other government initiative to do with forests.

There was quite a bit of consensus that came out of that document and, as such, I think there should be a lot of weight placed on that document and on the policy framework which is a direct result of it. As you also know, the minister announced that the act would incorporate the policy framework, and it's very difficult to find in the act or in the manuals where this framework is actually incorporated into it.

The recommendations we provide I believe are in line with the Diversity document, in line with the forest policy framework, and quite often use the exact same wording.

Sustainability we have approached in three different sections of the act.

Section 1, the purposes, we feel is an excellent place to outline the principles of sustainability. Using the ones strictly out of the framework, or very similar ones, seems to be the appropriate approach.

Section 8(2) we believe is a very good place to indicate the objectives of sustainability which should be found in a forest management plan, incorporating into that that a forest management plan wouldn't be approved without these objectives being addressed.

Section 66(2) we believe is an appropriate place to provide direct indicators of sustainability and how these could be used or interpreted for field purposes.

The approach the government has taken to this legislation is one of enabling legislation. That's probably a reasonable approach to sustainability, as there's a lot that isn't known about sustainability and the knowledge around sustainability and what it really means is continually increasing. I think the difference between what I would propose and their approach is that they seem to think that knowledge around sustainability is changing, whereas I feel it's expanding and that you can actually expand upon what is known now. What is known now isn't changing, won't change. There are fairly basic principles of sustainability and those can be and are incorporated into the act, and then as different aspects of sustainability are learned, you incorporate them into the manuals and use the manuals to explain how that can be done at the field level. That's basically our approach to sustainability.

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To go on from that, another prime concern of the Federation of Ontario Naturalists is protected areas. We feel there's a great need for a complete protected area

system in Ontario, protecting representative natural features throughout the province. There's been in place in the province for close to two decades a policy which outlines the objectives for protected areas, and the government has committed to completing these protected areas by the year 2000.

Subsection 31(1) of this act deals with amending licences for a harvest. We're concerned that there isn't opportunity to amend a licence for the purpose of establishing a protected area. Currently, as it stands, licences can be amended only as determined in the regulations, and in the regulations as drafted thus far there's nothing to deal with protected areas. We would like to see directly within the act something along the lines that licences can be amended to fulfil objectives of other societal values. Without this, what will happen is that protected areas planning will be done through forest management planning at the same time, and this isn't something that should be done. Organizations like ours would not be willing to say that a forest management plan is either sustainable or a good forest management plan unless it dictated which areas were to be set aside as protected areas to fulfil the goals of the provincial park system. That would bog down the system quite heavily, and I don't think that's something that we or anybody else wants. It's a fairly laborious process as it is, so I'd suggest an amendment to section 31.

Subsection 13(1) deals with forest operations prescriptions. The wording in that is, "If preparation of a forest operations prescription is required..." It sounds as though prescriptions will not be required in all cases, and prescriptions are really the way of determining how a plan is fulfilling its stated goals and objectives. Without pre-harvest prescriptions, then it really can't be seriously said that a plan is trying to fulfil its goals and objectives. We would like to see that section changed to "shall" be required as opposed to "if" they're required.

Subsection 26(2) and section 44 provide exemptions from preparing forest management plans or being subject to work schedules and a number of other things, for areas which are less than 25 hectares and for a licence which is for less than one year. There are two problems we see with that. One is that in southern Ontario 25 hectares can be an extremely significant area. Once you get down below the shield, I'd say the majority of the forests fall within that size range, and certainly once you get down into the Carolinian Canada zone, getting rid of an area of 25 hectares is very serious. The other problem is the possibility of incremental damage: 25 hectares a year over a series of years can add up to quite a substantial area. We would like to see either that condition removed or more stringent restrictions placed on that.

With respect to trust funds, we feel the trust funds should be tied more directly to the silvicultural standards. We do have a concern. I've heard on a number of occasions that industry would like to get into more intensive silviculture in areas close to mills, which I don't necessarily have a problem with. I am a little bit more concerned with the areas which are farther away from the mills which they go in and harvest and then want to do the minimum possible as those areas can be more expens-

ive to regenerate because of distance and because the profits they receive from them, due to the distance, aren't as great. Additionally, there is the possibility that companies would want to put less emphasis on those sites simply because they are of poor productivity. I believe there must be a tie-in to standards in order to ensure that these sites are properly regenerated. Basically, I'm saying that if they're willing to harvest it, they should be willing to regenerate it properly.

Finally, with respect to audits, in section 67, which outlines the regulations, paragraph 28 says that regulations can be developed around independent audits. The draft regulations, as I've seen them so far, say that independent audits are inappropriate at this point in time. I don't really see how they can be inappropriate at this point in time, and I think that directly within the act there should be a stipulation that independent audits are necessary and a time frame placed on that, possibly a two- or three-year time frame placed directly within the act.

That's all I have. Thank you very much.

Mr Hodgson: Thank you very much for coming in. I enjoyed the presentation. Why do you think this act failed to bring in a lot of the recommendations that were approved by cabinet and that groups like yourself had presented for years, and there was a consensus?

Mr Lompert: That's a very good question. I would have assumed that if something were cabinet-approved it is something they would be willing to bring forward in legislation. Certainly, it's not an easy issue to grasp. I think most of what it's in there is doable. I don't believe that we don't know enough to do something around it, and that's the approach I tried to take.

Mr Hodgson: Given that, why do you think they didn't do that? They had the same information you have, and you believe it's doable and it's approved by cabinet. Just your personal opinion, not representing your group or anything: Have you heard any discussion on it? Is there opposition some place to what was approved by cabinet?

Mr Lompert: Certainly there's opposition to what I've suggested. It would require more stringent standards and monitoring and enforcement, and I suppose the bottom line of that is dollars. All of those things added up results in hesitancy to implement that sort of approach. Monitoring, enforcement, more active regeneration are going to cost more dollars, but our position is that if you're willing to harvest it, you have to be willing to do the right job replacing it. I can only assume that that's a large factor in why it hasn't been appropriate.

1520

Mr Gilles Bisson (Cochrane South): I have one question not related to your presentation and another related to your presentation.

In travelling northern Ontario we heard many representatives of industry and independent loggers and their association come before us and talk about the whole question of protected areas, and you've just touched on that. The feeling within those groups is that they very much see the growing trend of protecting certain areas in the forest as one that's encroaching on their particular

part of the forest, taking more and more of the trees away from the availability of being cut and milled. The notion that was raised, to put it simply, was that environmental groups and tourist associations don't really have a stake in the forest because they don't really pay for the usage. When the government takes aside tracts of land to make them protected areas, it doesn't cost a naturalist anything and it doesn't cost the tourist operators anything, but they both benefit.

The notion they put forward is that somehow or other—I don't know how you'd do it with naturalists, but certainly that tourist associations and their operators should pay a larger sum of money when it comes to those protected areas of land. Do you agree with that, and, if not, what are your comments?

Mr Lompert: I'm not opposed to a more user-pay approach. How that would be implemented is a very difficult question. In respect to provincial parks, a large number of the provincial parks already require entrance fees, a substantial amount of money going into the provincial coffers in that direction. There's also, just to add on top of that, a fair amount of spinoff to local communities from provincial parks. I can't remember the figures, but I believe it's in the hundreds of millions of dollars, which is quite substantial. Just because you set an area aside, from a purely monetary perspective it isn't a complete loss, and you have to remember that there are other reasons for setting areas aside as well.

Mr Bisson: I understand what you're saying. Of course we have to set aside pieces of land to make sure they're there for the enjoyment of future generations, and I think most of us understand that. But I think their complaint is that if you're a stakeholder in the forest and you don't stand to lose economically from a decision made by government, you're going to be pretty ambivalent about that decision. I think that's what their argument is. They're saying, "We're the forestry companies," or "We're the mining industry" in some cases, "and if you set aside particular pieces of land, it will affect our livelihood," yet you have environmentalists and naturalists and every other kind of "ist" out in the bush—

Laughter.

Mr Bisson: Well, it's a good way of putting it—trying to protect the forest for the future to come, but they don't see you as a full-fledged stakeholder because you don't pay a fee. That's what I'm looking for.

Mr Lompert: I suppose my personal perspective would be that they're also gaining a lot more from the use of that resource and they're also impinging a lot more on the use of that resource by other people, and as such they should be a lot more responsible for paying for the resources they take.

Mr Wood: Thank you very much for coming forward. You've come forward with a lot of good recommendations and ideas for amendments and changes.

I just want to address one basic area, on the 25 hectares. The reason for that being there is that some independent loggers or small groups might not be able to come up with a plan of their own and MNR would be able to assist them to come up with a prescription, a plan,

for that particular area for firewood or whatever. What is your opinion of that, with the explanation I've given?

Mr Lompart: I don't intend to overburden the small operators, but you say the MNR may help these people come up with a plan. Just make sure that plan is in place, whether it's with the MNR, or perhaps, in the case of a crown management unit or something, have the forester who's responsible for that management unit include in the plan possible areas where these smaller operators could operate and how they might operate.

I don't see that there's any need for harvesting anywhere on crown land that doesn't have some sort of plan, prescription, associated with it. In the case of a small operator, it's probably the responsibility of the ministry to place the small operator in the greater perspective and up to the ministry to come up with the greater plan and how this person fits in and what they should be possibly doing.

Mr Brown: Thanks for coming. The Federation of Ontario Naturalists has always been an important and significant voice in this province, and you're articulating its views well.

As we go through the issues, parks, for example, are an issue that comes up a lot. We've been facing tremendous pressure on provincial parks in the last few years; as you've noted, increased user fees. Eight parks were closed in the spring, with no notice. They almost closed 25 parks early this year. Those are single uses.

As we move to the commercial or industrial forest, as we know it—I don't know what term you like, but I guess that's the area we're really debating in the crown forests these days—it's a difficult concept for many of us because I think most of us understand it to be a multi-use area: that forestry can occur there but it has to occur there only in conjunction with a large number of other values. The difference is that we seem to be committing ourselves, and have over a long period of time, to silviculture, which is really agriculture for trees, I guess. How well we do that is what we're really here talking about, I think, at least in part.

Mr Lompart: Silviculture is the means by which you're trying to fulfil certain objectives. It's not an objective in itself.

Mr Brown: But with agriculture, the objective is to grow whatever, whether it's wheat or corn or whatever. Obviously in silviculture, the objective is to grow—and that's the question: what, after you've harvested?

I've had difficulty, and I want your views on this. We talk about ecosystems, as if anybody knows what an ecosystem is; there are various definitions around. But the forest is a dynamic forest. It's changing all the time whether there are humans there or not. It's not easy to define in a specific period of time and say, "This is what it looks like now and what it will look like tomorrow," even if there's no human interference. I wondered if you could provide us with an ecosystem definition that would be helpful.

Mr Lompart: I think there is, actually, enough of an understanding in a practical sense to actually use ecosystems. If you look at some of the forest ecosystem classifica-

tions that are out there, I think that's a very real mechanism which can be used to determine what a specific ecosystem is. Essentially, what that does is look at the major tree species and the major soil and underbrush and put it into a certain classification. That will go through a typical succession for that ecosystem. You can guess what's going to happen over time with that so-called ecosystem. In that respect, you can manage it and you can direct your silvicultural techniques to redevelop that type of ecosystem.

Ecosystems do change and their precise boundaries can be debatable on different scales, but I believe there are mechanisms out there which deal on a scale which we would be more likely concerned with: on the management unit level, looking at closer to a stand level definition of ecosystems. I know that approach has been used on some timber management units already. It's not something that needs a lot—it needs some more development but it's very close to a state where it can be used in a practical sense already. There are objectives for some timber management units based on these forest ecosystem classifications.

The Acting Chair: I'm sorry, but 30 minutes has already gone by. Thank you, Mr Lompart.

1530

ELK LAKE COMMUNITY FOREST

Mr Paul Tufford: Thank you very much for having me here this afternoon to speak to you. I guess you could say we're kind of the new kid on the block. We're part of an initiative the MNR has started out as part of its sustainable forestry program. There are four pilot projects, as was alluded to earlier in the presentations, Geraldton being one, 6/70 up in the Kapuskasing area, ourselves, and Wikwemikong.

We're not going to speak to the entire bill. We just have a couple of comments. One has been hit on by pretty well every speaker. That's either the definition of sustainability or the need for a definition of sustainability. In the definition of terms we did not notice any reference to sustainability at that point, and we feel there should be some reference in the act itself. Possibly something along the lines in section 8(2) where there's some reference made to land, soil, water, those types of things, might be appropriate. We're not necessarily prepared to offer a definition on our own. It's probably beyond us at this point in the game because we are a fledgling organization.

The act identifies a couple of different citizens' committees. Section 12 is the local citizens' committees, which are primarily advisory in nature from what we can determine, and then there are the forest management boards in section 62, which have both advisory and operational potential, with some delegated authority and things like that. We feel these are steps in the right direction, moving towards more public participation and a more proactive nature, that type of thing, which is essentially why we're in existence at this point in time.

However, there's no mention of community forests or community forestry, and we are part of the sustainable forestry program that's being run by the government right

now. We feel this was an oversight, and we would like to tender that community forests be a third form of local management board or citizens' participation board, if you would.

The difference here is that the community forest would put itself forward as a committee as opposed to being appointed by the minister. We would put ourselves forward in the manner of preparing a formal plan, a business plan or a management plan. That would be submitted for review and approval, and at that stage of the game they could fire up and start on their way. We're looking at them as having some form of delegated authority. It would have to be granted on an incremental basis as the committee or the board demonstrated its competence in various areas, and it may seek areas of delegated authority over time. It would have to be set up such that it would not create an additional layer of bureaucracy but there may actually be a tradeoff from, say, the body responsible now being MNR to the community forest, somewhat similar to what forest management agreements have at this point in time.

The other thing we put forward is that the municipalities in the province would be a logical proponent and sponsor of said community forests. One of the notable things our membership has come up with is the lack of socioeconomic impact analyses for a lot of resource management planning. Municipalities, just by their mandate, actually build that into any planning they do, so that would be a logical extension of their mandate. They're positioned such that they have the organizational structure, particularly in rural areas, that they could provide that leadership and we could capitalize on their existing infrastructure for cost and time savings during startup.

We're also making presentation to the Municipal Act to suggest amendments that would permit municipalities to set up community forests in some guise, either as a committee of council or whatever, such that they could operate as part of the municipality.

There's been some concern mentioned about control being granted to a municipality and that the larger regional interests might be overlooked. We at the Elk Lake community forest have been operating for two and a half years. We have membership on our board from across the Timiskaming district. In the executive summary I've handed out, there's a breakdown of the interest groups we have and where those particular members come from. Although it's not perfect, we're working on it, we're getting there. As I said, it's a transitional thing; it has to develop over time.

Some of the other presenters have mentioned the need for the collection of data and those types of things as you move towards sustainable management. We've entered into a number of different projects with the local MNR, plus some on our own. A lot of these are aimed at data collection, development of inventories, updating of inventories. And with this, we're trying to apply some common sense. That's probably our forte, I guess you could say, because it's a group of local people who live and recreate in the area, and any decisions they make they have to live with, have to deal with. I don't think

anybody is interested in working themselves out of a job or pursuing a particular activity that's going to harm the area and its ability to sustain the people and the ecology of the area.

I won't bother going through any of the things we're involved in; you've got that in front of you. There are also three larger packages, one for each party, that include a copy of our pilot project plan for your perusal. That's the sum total of what I have to say.

Mr Wood: Thank you for bringing forward your excellent presentation from the Elk Lake community forest. I know how proud you are of that, as I have the 6/70 community forest in my community and I'm well aware of the excellent work that the four pilot projects have developed and congratulate you on the work you've done.

Mr Tufford: Thank you.

Mr Wood: I'm looking at your pamphlet, in "A Brief History." "In May of 1991 the [then] Minister of Natural Resources, Bud Wildman, announced a comprehensive sustainable forestry program," and part of that was the four community forest projects.

You're saying that the four community pilot projects don't seem to be covered, but under "Miscellaneous," section 62, "The minister may establish forest management boards for such areas as are designated by the minister," which would be very similar to the minister, Bud Wildman, setting up the community forests, which involved a large number of volunteers coming forward and working as a working group. I just wanted to throw that out for you. Do you feel that would be sufficient?

Mr Tufford: The way we read it in the act, both section 12 and section 62 are permissive in nature; in other words, "the minister may establish." We would like to see community forests as an entity recognized in black and white, because it's always better when the name's there, and that the minister be obligated to entertain these submissions and review them, and if they have merit and are valid, the board could be set up. It would operate essentially very similar to a forest management board, the difference being that the community has taken the initiative. They've come forward, they've recognized the need to address the sustainability of the resources of their area, their livelihood and everything that goes with it.

1540

We felt it was significant, some people may think it's subtle, but the critical part is the fact that the community can take that initiative, because that's true stewardship. If the community wakes up and says, "Hey, we're not going to wait for government to do it; we're going to take the bull by the horns and move ourselves"—now, we still abide by provincial regulation and legislation etc, but we have a little bit of freedom to be innovative to make things work and not have to deal with maybe as large a bureaucratic structure as the MNR has to deal with now, which sometimes actually hampers some excellent ideas.

Mr Wood: There are a lot of developments that are taking place and have taken place over the last number of months and years. As we're speaking, I'm sure you're aware that the Bob Carman exercise that started some

time ago is negotiating and coming up with some very favourable results that we'll hear more about in the next hours and days, I'm sure, and we'll probably hear more about it from some of the different participants in the Ontario Forest Industry Association as they come forward to make their presentation, and the Ontario Lumber Manufacturers Association. There's a lot of activity going on there.

I just wanted to get feedback from you about how you feel the public input has been out there. Has there been enough public input leading into Bill 171, or is the message getting out there? I know we're doing it through press conferences. There was a press conference here this morning. We're having public hearings. Are we doing enough?

Mr Tufford: I can only speak to it personally. I'm not a TV watcher. I live in a very small community. I work too many hours a day. It was by chance—we were looking at making a submission anyway—that our lawyer informed us that Bill 171 was in the hearing process. It was probably an oversight on our part, but we're fairly small-staffed and doing a million things. As some of the other presenters mentioned, it's a fairly tight time frame. Most things seem to be a fairly tight time frame.

The title of the act speaks to the fact that they're revising the Crown Timber Act. We didn't look at it as anything more than the fact that it's really a revision of the Crown Timber Act. We weren't trying to read too much more into it other than that you're thinking of it differently.

In terms of the potential for public input, I guess it could be argued either way. You could do it for a year and you still wouldn't have enough. You've got to draw a line somewhere.

Mr Wood: Your name came up in Fort Frances that you wanted to make a presentation, and the committee unanimously said, "Yes, let's get him on the list and hear the things he has to say."

Mr Tufford: We greatly appreciate the short turnaround.

Mr Miclash: Thanks for your presentation. As the parliamentary assistant was saying, we're quite interesting in section 12 in terms of citizens' committees. Throughout the past two weeks, we have certainly received a good amount of input into what they should be comprised of, mandate, and things they should be looking at.

You've indicated three different groups here, that section 12 refers to the citizens' committees, your group, the community forest, and you've also mentioned municipal councils. How do you see all three interacting to come up with some productive material, I guess some productive logical output?

Mr Tufford: We mentioned municipalities because the Elk Lake community forest operates as a committee of council. We're really stretching the rules, but for the term of the pilot project it was deemed we could do it. That's why we're making a presentation for an amendment to the Municipal Act, and also in the interest across the province of anybody in the future who would care to pursue it this way, so the community forest or forest

management board, whatever you want to call them, would operate conceivably as a committee of council.

In a given area within the province, you may have a local citizens' committee and not have a community forest because there may be a very large industrial interest. We are in a relatively unique situation. There are four crown management units where we're located, and numerous small industrial operators and numerous tourist operators etc in the area. Those are the types of people we've brought together and that we see, for that type of situation, working and providing us with potential for some economic diversification, stabilization and paying some attention to the various aspects of the forest resource that should be maintained to provide ourselves and our children with opportunities.

There may be other areas, Fort Frances where Boise works, where you may only have a local citizens' committee that sits and that may not only advise the minister but may be working with the company itself in the development of its plans and those types of things. That may be a possibility. It would be somewhat difficult, I think, to get a forest management board. It would have to be a fairly unique composition in an area like that, where you have a forest management agreement that's already in place.

Mr Murdoch: Thank you for your presentation. I happened to be up in Kapuskasing a while ago, and in the community forest there they showed me what they were doing. I thought it was a good idea. I'd like to compliment the government for starting these projects up, because I think that's a step in the right direction.

I just noticed your mission statement, "To promote the continued economic viability of local communities that depend on the area for their livelihood through the implementation of sustainable forestry practices." Does this bill help you out with that statement or not? I've heard a lot today about sustainable forestry practices, and it doesn't seem to be in the bill.

Mr Tufford: It goes back to common sense again. We've looked at things. As I've listed further on in here, we've been involved in a number of data collection projects, anywhere from updating forest resource inventories to wildlife habitat inventories to cultural and heritage inventories. We've got a resource management field worker training program where we've hired 16 people. Four of those are trained technicians, and they are training 12 other people in various aspects of resource management. To a degree it's grunt work but work that needs to be done for an intensive management of certain areas, that part of the feedback loop for any management activities: You know what you have out there so you've got that baseline to move from or to come back to or whatever.

The act is essentially one aspect of it. You have a fisheries act, you have a new wildlife strategy, those types of things. There's a number of differing pieces of legislation and policy that we feel we can pick and choose from or whatever and try and incorporate together in an innovative way.

The advantage we have is that a lot of our focus is public education. You can legislate people to death and

they're just going to dig in their heels, but if you sell the local population on what you're doing, that "You have to change your logging technique," or "You have to stay away from this lake for these reasons," people will buy into it because it makes sense. Then you start moving the yardsticks and then you start making it easier to achieve that sustainability because you're not getting into those areas of conflict where everybody is fighting for the same piece of pie. They understand why they can't have that piece of pie and somebody else can have it, and then they can shift their focus and their activities.

Mr Murdoch: I certainly agree with your common sense. That's why we have put forward a paper called the Common Sense Revolution, and I'm sure you'd agree with that. I found that up north, when I was up there, that most people agreed with me and said that that's what they need coming from government, which they've lacked over the last 10 years; there hasn't been much common sense. So I thank you for your presentation.

The Acting Chair: Thank you, Mr Tufford.

1550

UNION OF ONTARIO INDIANS

Mr Alan Roy: My name is Alan Roy. I'm the environment director for the Union of Ontario Indians, representing the Anishinabek nation. My apologies for Chief Roy Michano this afternoon. He was not able to fly down from Thunder Bay to make the presentation.

The Anishinabek nation is an organization made up of 41 Ojibway first nations in Ontario around the Great Lakes, from Thunder Bay to Ottawa, from Sudbury to Sarnia. Many of our treaties maintain our rights and interests on crown land to include such uses as fishing, hunting, trapping, plant gathering and forestry. Many of our first nations are involved in logging operations as third parties within company/industry FMAs. None of our first nations have first-party agreements or actual FMAs with the Ontario government. All our lands have essentially been given away to forestry corporations.

The native issues involved in review of this act: Our chiefs have noticed that the revised Crown Timber Act makes reference to first nations in only two sections. Section 5 is a standard non-derogation clause for treaty and aboriginal rights. The second, section 20, provides for agreements with first nations for joint exercise of any authority of the minister in relation to company work schedules, forestry management plans and recordkeeping. It's really consultation after the fact of an allocation.

The Anishinabek needs are the following:

For first nations to have a stake in conservation, a substantive voice in the protection of aboriginal and treaty rights and a vested interest in consultation, first nations require their own FMAs in order to practice a custodial responsibility for the forests while making their own economic opportunity.

Third-party agreements with the forest industry are only temporary arrangements in the transition for first nations to manage their own treaty lands in conjunction with the Ontario government for forestry operations.

Nothing in this act facilitates that transition to co-management and economic independence. Section 20

only refers to after-the-fact allocations and token consultation. Without our own forestry economic base, Anishinabek cannot retain the foresters, planners, analysts and other technical resources that would make real co-management with the Ontario government feasible on our lands.

I'm going to add something that's not in the brief. There are 23 land claims at present under the Indian Commission of Ontario. There are dozens more that have been researched and are ready for negotiation. There's nothing in this act that will guarantee the integrity of the forests, the diversity and the ecosystems that would reflect a healthy forest when it comes time for those land claim settlements. Those land claim settlements will cover most of the crown lands in Ontario eventually, and you realize that most of the crown land in Ontario is already allocated to industry under FMAs.

The issue of sustainability:

The definition of crown land under section 20 requires a specific definition of sustainability in relation to those forests. The Anishinabek require a definition that will guarantee a multiple use of our forest crown lands and will reflect feasible sustainability of that forest. For this reason we endorse the following definition put forward by environmental groups in Ontario and expect such a definition to be included in the act. That definition has also flowed from the five-year involvement of ourselves in drafting the Wild Life Strategy for Ontario—something that wasn't translated into an act, by the way.

We have included an ecosystem-based definition of sustainability as it would apply to forest management. This definition, and variant of it, must be the basis of the act or it will not and cannot be relied upon by the people of Ontario to ensure that our forests are conserved for future generations. The definition, as I read it, would be the following:

The forest within each forest management unit in Ontario must be managed in such a way that all wildlife species, forest age classes, and plant species associations are maintained at levels that reflect the natural forest in that are or region. In addition, all harvesting of resources must occur at a rate that will provide for a long-term continuous flow of all products associated with the forest within that management unit.

There has to be a clear message in the act that past forestry cutting operations must change substantially in order to support sustainability principles.

In the evidence placed in front of the class environmental assessment timber management panel of the Ontario Environmental Assessment Board from the Forests for Tomorrow group, they reviewed that evidence and close to a thousand colour photo slides on current industry operating procedures in our forests. Many of those slides documented company practices that lead to degradation of our forests, under the following headings: large clear-cutting; cutting to water edges; soil erosion; litter; poor regeneration; propagation of monoculture forests, and others.

Those past practices by companies in Ontario proceeded under FMAs. They proceeded under plans that

were approved by the Ontario government. The inventories that were done after that, after the fact, in review of those FMAs, showed that there was degradation of the forests, showed that there was more timber being harvested than was being regenerated. We do not see sufficient control measures nor an attitude towards serious custodial commitments to our forests that will guarantee sustainability in the long term in this revised act.

Interpretation of cutting operation plans: The emphasis of the cutting guidelines is clearly deferred to regulations in the act. Such regulations can be lengthy, complex and subject to various parties' interpretations. First nations will not have the human resources nor the inclination to involve themselves in such an examination, given that the act does not project serious sustainability principles and will allow for multiple interpretations under those regulations. Section 26 even refers to provisions for a company to clear-cut up to 24 hectares each year, presumably indefinitely, without a plan. It is one thing to exempt a plan on a small area. It is quite another thing to give carte blanche to an area chosen and guidelines for cutting on that area.

In summary, the Anishinabek expect the following:

- A realistic definition of sustainability, such as I've given you in my presentation.

- Recognition of multiple use of our forests. The industry is not the only one in there, and this act should allow for other considerations.

- Recognition of our aboriginal needs for FMAs.

- Provision of resources for our meaningful involvement in comanagement of our forests on crown land with the Ontario government.

- Clearer direction to companies to change their present cutting practices and subscribe to sustainable, long-term forests, reflecting ecosystem principles.

I'll add one more: Make the future revised act accountable to the Environmental Bill of Rights. As you know, the Environmental Bill of Rights only covered the old timber management act, and there would have to be something revised to make it accountable to this new legislation that's coming out in Ontario.

1600

Mr Brown: Thank you, and my regards to Chief Joe Hare, who is one of my constituents.

Mr Roy: He's just getting used to his new job.

Mr Brown: We've heard quite a bit about the definition of sustainability. Certainly your group is not the first to raise this issue, and we appreciate very much you providing us with your preferred definition of sustainability. I think you addressed this question in your brief, but maybe you could expand upon it. I've been asking groups: Given your own definition of sustainability, applying that to the act we see before us and the regulations we see and the manuals we see, do you believe the government is actually going to achieve sustainability through this act?

Mr Roy: No. I think too that if the practice of a company or even its plan was challenged in court, a judge would have a great deal of difficulty interpreting

what is sustainability and what is not, under the legislation. I don't think it would be enforceable for MNR and I don't think it would be enforceable under a challenge in the courts, the way it's written now.

Mr Brown: We have another problem with definition in this bill that maybe you could help us with. That's the ecosystem definition, which seems a little lacking. One of the problems we face here is that in many of Ontario's forests this is not the first time there'd be cutting done; we're often looking at second cuts, sometimes even third cuts of the forest. The problem is identifying what that forest might look like if none of that intrusion had happened and what kind of ecosystem therefore we're trying to regenerate.

For example, we may have a forest that is now primarily poplar and birch, and the reason it's now primarily poplar and birch is that somebody at some point had clear-cut the jack pine, for example, and therefore the regeneration, the natural regeneration in that case, ends up being poplar and birch. Can you give us some idea of where your organization fits on those kinds of issues?

Mr Roy: From a scientific background, we would say the way we would relate to "ecosystem" is biodiversity principles and multiple use of the forest. From our own cultural perspective, we would expect the forest to sustain the multiple uses we would expect to get out of it and reflect a healthy forest; that is, reflect biodiversity in the animals, the plants and the trees as well as protecting the aquatic systems, which is really what we strove for when we drafted the Wild Life Strategy for Ontario.

I don't think you can take forests back to the turn of the century, and I don't think we expect that. There are ways, though, to cut the forest which can actually facilitate biodiversity. I don't see it here because I don't think this act looks at that; I think this act looks at a way of getting the logs out of the bush without disturbing the status quo that much. The whole way this act is written doesn't really change the status quo.

Mr Brown: Some presenters have said to us that what we have here is that what somebody has done with this act is go through the act and every time you should say "timber" they are now saying "forest," and that makes it all seem right. Is that your view?

Mr Roy: Yes.

Mr Brown: So we just have a revised timber act—maybe a new, improved one, so the parliamentary assistant doesn't get excited—but what we have is a timber act rather than a forest management act.

Mr Roy: I actually got the impression that in the old act there was actually more of a requirement to look at the plans from a sustainability point of view.

Mr Bisson: Under the old act?

Mr Roy: Under the old act.

Mr Miclash: Thank you for your presentation. As you will know, we heard from Chief Kakeway and Chief Wilson in Fort Frances as well on some different aspects of what they saw in terms of this act as it was going to affect them in northwestern Ontario.

You've indicated that none of our first nations have first-party agreements or FMAs with the Ontario govern-

ment. Could you maybe elaborate on why not?

Mr Roy: I'll speak specifically within my own territory, the Anishinabek. I'm thinking now of those first nations along the north shore of Lake Superior, those along the north shore of Lake Huron. They got into the forestry business 30 years ago on very tiny cutting operations, and there's really no land available to apply for a licence in a particular area except for some small crown land management areas maintained by MNR for the Ontario government. Most of the land is already granted in 20-year FMAs, so if we're going to get into the logging business and we approach a company, we'll get maybe 8,000, 15,000, 20,000 cord cuts a year and it'll be usually in areas where it's difficult to build the roads and the timber isn't that good, first of all. So we have experience, but we've never been able to get into a large logging operation because those licences were never available to us. There was never, for instance, a principle of right of first refusal if a licence became available.

We always talk about making first nations independent, giving them the economic opportunity. ONAS has brought out papers in this province which talk about economic opportunity and the right of first nations to have their own economic opportunities and independence, but in fact we've never had a crack at FMA, not within my area anyway. It's always these little third-party agreements, and we're at the whim of the companies. We certainly are not part of the planning picture.

Mr Hodgson: Thank you for coming before us today. You mentioned that the bill enshrines the status quo, or maybe a step backwards. The old Crown Timber Act had what was referred to as sustainable yield criteria for any plans. The status quo, though, in terms of the purposes section of the bill and the press announcements, was that sustainability was to sustain not only the forest and the timber coming from the forest in perpetuity, and the ecosystem—it's going to sustain that as well—but it's also going to sustain jobs in the northern communities, in the economic communities. What you're suggesting is that FMAs be changed: The configuration of the jobs would be changed, but the number would remain the same?

Mr Roy: No, I don't think it would. Anyway, the operations we run are always labour-intensive. We can't invest in technology the way the companies do. Essentially, our operations are non-profit and whatever money is made on the operations goes back into the communities. The primary objective of our operations is employment, to get people off welfare and get them working. Our whole motivation for getting into the logging industry is twofold. It's to get jobs for people in the small communities, but also to have something to do with what's happening in the forest. And it's the kind of work that our people like to do.

Mr Hodgson: You have been involved, I assume, in preparation of the manuals in the study groups that have gone on in the past. You mentioned the Wild Life Strategy for Ontario. Why wasn't that included in this act? Have you been given any answers to that?

Mr Roy: For the Wild Life Strategy for Ontario, that five-year exercise, we specifically went to Howard and

asked him, why put the emphasis on a forestry bill? Why not put out something that covers the whole ecosystem? They had already drafted the bill at that point and it clearly was an emphasis after the class assessment on forestry to follow up and put something in legislation.

I don't understand what happened. It happened very quickly and it happened without consultation with any first nation. If Willie Wilson and myself are the only two who are here, it's not indicative; there are at least 25 groups in Ontario that could have come before you representing aboriginal groups. We were not consulted and we were not part of developing the manuals. We weren't asked even about the two clauses that specifically relate to aboriginals. We were never approached on those clauses and we were never approached on a definition of sustainability. There was no consultation.

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Mr Wood: Thank you for your presentation. In the area I represent, Cocos Lake and New Post are two drive-in reserves, and both the chiefs, Chief Archibald and Chief Spence, have been involved in the public consultation and discussion and they've been negotiating contracts. I think the latest one they negotiated was about \$300 million back to them over an 80-year period for the Shekak power plant. New Post has contracts for tree planting and harvesting, and they've been quite actively involved with myself and Howard Hampton in the discussions.

I was under the impression that you were involved in the drafting of the manuals in July on the first or second draft.

Mr Roy: No. We went to the information orientation session at the airport and the manuals were sent to us, but I have no resources in my operation. I'm alone, and there are a lot of other things that are impacting on us at the same time. We've never had any funding to even work in the environment. I'm a health officer working for the Union of Ontario Indians. Environment is my second hat; that's not funded. We just didn't have the resources to get into it, and we didn't have the inclination either, given the basic bill that sets the tone for the regulations.

By the way, the first nations you're referring to under the Nishnawbe-Aski have a separate agreement that sprang from the class environmental assessment which provides for a consultation before allocations are made. We don't have that in Treaty 3 or we don't have it within the Anishnawbek around the Great Lakes or in southern Ontario.

Mr Wood: There's no doubt that there's a lot out there on the plate, especially in the last three, four or five years, especially with the environmental assessment that came to a conclusion. It made a lot of very good recommendations that we've wholeheartedly adopted and accepted in terms of the structure and makeup of local committees, the involvement of using forestry and the ecosystem for sustainability into the future.

I know the Chair is going to cut me off, but I'm pleased with the definition of sustainability you've come forward with. I think it's something we can work with. We put the question to them, "What is your definition of

sustainability?" and they're saying, "Well, I don't want to define it right now." There's no doubt in your minds, you have defined it, and I appreciate your coming forward with that definition.

Mr Bisson: Thank you for coming forward and being fairly clear on a definition of sustainability. Of those we've heard, it's not a bad one. I think it tries to encompass what we're looking at in the bill. I appreciate that, because that's one of the questions this committee has been wrestling with. We're trying to come down to what's an actual definition that we can come back to in a little while.

I just want to clarify two things you said and then get into the biggest issue, which is how we deal with first nations in terms of not only comanagement but the ability of native people to have an economic base on which to operate their governments and provide for their people.

The first thing is on section 26, where you said people would be allowed to harvest up to 25 hectares without having a forest management agreement. You should be aware—and if you're not I'd like to clarify—that that is meant for non-commercial operations. It's meant for things like fuel wood permits, possibly developments that may be happening in the area.

Mr Roy: I didn't know that. Thank you very much.

Mr Bisson: The question I'd have later on that is, should it be smaller?

The other thing is that you talked about the bill being unenforceable, and I thought that needed to have some mention. As you understand, in this legislation you'd sign an agreement with the crown as you do under the Crown Timber Act presently, and by virtue of signing that agreement you spell out what it is you're going to be doing as an operator, what you intend to do in terms of not only how you approach cutting the trees but also when it comes to reforestation. That is fully enforceable through the laws; the bill is fairly specific in how it deals with that. If we've heard one criticism, it's been that under section 61 it's maybe a little too enforceable, in the view of some.

I want to get to the biggest issue, because I think that's the one, quite frankly, that your people need to deal with and we need to deal with. That is the question of not only comanagement but—you made the comment a little while ago, and it's true, that currently in Ontario most of the wood that's available for harvest has been already divvied out—I'll use that term—to forestry companies over a period of 60, 70, 80 years. I was in northwestern Ontario with the committee last week and we're aware of situations where native people have a sawmill within their community and can't get any wood.

How do you go from here? If you're Boise Cascade or

you're Malette Lumber or you're Abitibi and you have an FMA, you'll say: "We have tender to that forest. We won't do it fair and square." That's the way they see it, pardon the pun. How do you at this point go about trying to make sure that first nations people have access to the forests for their economic development?

Mr Roy: You could do it two different ways. You could do it within the act, or you could do it within a policy framework. But essentially, within given management areas in Ontario, you could sign memoranda of understanding with first nations on a comanagement format that would look at allocation before the fact.

Mr Bisson: Of existing FMAs or new areas of harvest? That's where I'm not clear, because we can do that under this act. We can enter into an agreement with first nations people to develop a particular area for their economic wellbeing. But the question I have is, as most of this forest is already divvied out, how do you deal with the existing forest companies and how do you divvy that back?

Mr Roy: Some of that land eventually is going to have to become available either on right of first refusal on a licence or a reduction of the land by 10% each year—or something; I don't know how the Ontario government will accomplish it. But when that happens, I believe first nations should have a comanagement structure where they should be able to talk about allocation with the Ontario government and shift the allocation over to first nations, partially.

Mr Bisson: From existing operators?

Mr Roy: Yes.

Mr Bisson: Not easy to do.

Mr Roy: No, it's very difficult. That's true of fishing licences, trapping licences and a number of other things in the forest. That's the challenge.

Mr Bisson: Are your different band councils and leadership talking now within northern Ontario to various companies about how you make that happen, to try to sensitize them?

Mr Roy: Yes. The discussions are not going well. There's an obvious example in the Wawa area. There's a new hardboard mill going up. There is no action whatsoever in relation to first nations in the area supplying fibre to that mill. There is just nothing. Those discussions are going nowhere. That's one of the reasons why Chief Michano wanted to come here today.

The Acting Chair: Thank you very much, Mr Roy.

That concludes our meeting this afternoon. I want to remind you that we are meeting tomorrow morning at 10 o'clock.

The committee adjourned at 1619.

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Substitutions present / Membres remplaçants présents:

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Hodgson, Chris (Victoria-Haliburton PC) for Mr Arnott
Miclash, Frank (Kenora L) for Mr Sorbara
Morin, Gilles E. (Carleton East/-Est L) for Mr Grandmaître
Murdoch, Bill (Grey-Owen Sound PC) for Mr David Johnson
Perruzza, Anthony (Downsview ND) for Mr White
Wood, Len (Cochrane North/-Nord ND) for Mr Morrow

Also taking part / Autres participants et participantes:

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Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Luski, Lorraine, research officer, Legislative Research Service



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Standing committee on
general government

Comité permanent des
affaires gouvernementales

Crown Forest
Sustainability Act, 1994

Loi de 1994 sur la durabilité
des forêts de la Couronne

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Tuesday 30 August 1994

Mardi 30 août 1994

The committee met at 1000 in committee room 2.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

ONTARIO FOREST INDUSTRIES ASSOCIATION

The Acting Chair (Mr Gilles E. Morin): Good morning, and welcome to the standing committee on general government. Our first presenter is the Ontario Forest Industries Association. You have half an hour, and if you finish before your half-hour, the time will be divided equally among the three parties to ask questions of you. Please start.

Ms Marie Rauter: I am Marie Rauter, president of the Ontario Forest Industries Association, and I have with me today Martin Kaiser, who is manager of policy for the forest industries association.

We are a trade association currently representing 20 member companies performing forestry operations and manufacturing of pulp, paper, paperboard, lumber, plywood, panel board and veneer. We represent an industry which employs more than 60,000 Ontarians and contributes approximately \$2 billion per annum to the provincial balance of trade. What brings us here today is concern over Bill 171. It is legislation that will guide this industry's operations into the next century.

There is a need for change. The OFIA agrees that new legislation is necessary to replace the outdated Crown Timber Act, legislation that will ensure that Ontario can sustain a healthy forest industry for the benefit of all.

A healthy forest industry is contingent upon some basic requirements: healthy, sustainable forests, secure tenure and a healthy investment climate, and healthy partnerships with government and other users of the forest. Unfortunately, Bill 171 as written does not provide for any of these requirements.

In appendix A, which we handed out along with the brief, we have identified the sections with which we have concerns and have proposed some courses of action which should be explored more fully through meaningful consultation.

We will examine how this bill fails to address these key requirements, but first some overriding concerns.

Lack of consultation: The OFIA is before you today

frustrated at the lack of meaningful consultation in developing the most fundamental piece of legislation governing the forest industry in over a decade. The process surrounding the development of Bill 171 is in direct conflict with the government's own principles for decision-making and, because of that, fails to draw on the experience and the knowledge that exists at the ground level, and that which is contained within a vast body of evidence collected in recent years.

This legislation could mean another environmental assessment. The legislation as written conflicts with a number of recommendations and rulings in the class environmental assessment on timber management. In fact, this legislation differs so vastly from the EA board rulings that, if it is enacted, it could actually result in the need for another environmental assessment. At the present time, neither government nor industry has the approval under the Environmental Assessment Act to prepare or implement forest management plans. Based on the EA board's decision, we are limited to planning and conducting timber management activities while taking into account non-timber values. We think this is a very key point in the way this legislation is written.

Also, the punitive tone of the legislation: We're concerned that the punitive tone of this legislation sends the wrong message not only to the financial community but to the general public, to our customers, and to the international marketplace.

The OFIA recognizes the need for penalties in the event of poor performance. But in order to be effective, the rules for their application must be clear and they must ensure that the penalty is commensurate with the severity of the offence. The discretionary powers afforded the minister in judging compliance and assessing penalties exacerbates this uncertainty.

Member companies are disappointed with the absence of incentives to continue to strive for excellence in management. A balance of rewards and penalties would not only promote compliance; it would stimulate companies to exceed minimum standards. This legislation is written to encourage minimum standards, not to strive for maximum.

To remain competitive in the international marketplace, we must excel not only in product quality but in forest resource management. This legislation must afford us that opportunity.

In the absence of this legislation, our member companies have already demonstrated their commitment to excellence in many different ways. The industry, for

example, is actively working with provincial and federal governments, as well as the Canadian Standards Association, to establish criteria upon which individual companies can be evaluated and judged in an international forum.

Other examples of our commitment are what we handed out today, our Code of Forest Practices, which was done in partnership with some other interest groups; and also a number of questions that are being asked of us constantly, and it's called Forest Renewal in Ontario: You Asked Us. I hope you will take a few minutes after these hearings to look at what is in the content of those publications.

To have a healthy forest industry, we must have healthy sustainable forests. Sustainability and good forest management cannot be legislated. The purpose of this act should be to facilitate and to encourage sustainability.

The most critical issue to be resolved is a definition for sustainable forest management. We recommend the use of the definition developed thus far by the certification committee of the Canadian Standards Association for "sustainable forest management." It is: "the planning and implementation of activities to provide for the continuing production of resources to meet specified objectives and provide economic and social benefits to society in an environmentally acceptable manner. The level of production will depend on the nature and distribution of the resource, and the intensity and effectiveness of management."

The draft legislation provides a number of disincentives, such as: converting legal agreements to licences; excess ministerial discretion; no compensation for amendments to agreements and licences; and no legal recourse to ministerial decisions in critical areas. It is our belief that a number of these disincentives could be resolved through meaningful discussion between industry and ministry professionals.

Another requirement for a healthy forest industry is secure tenure and a health investment climate. The health and the prosperity of the forest industry, and the communities that completely or partially rely on this prosperity, are contingent upon sustainable, healthy forests. Our concerns regarding forest sustainability have a direct impact on community and industry sustainability as well.

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On August 15 of this year, this committee heard from the assistant deputy minister of policy for the MNR that one intent of the legislation was "to assist in providing a stable economic environment for [the] forest industry and communities," and another, "to implement some of those recommendations" of the Forest Industry Action Group. This bill's contents are in direct conflict with these intentions. The government's ability to contribute to a stable economic environment for the forest industry and the communities is contingent upon its ability to provide certainty regarding tenure and wood supply.

The critical importance of these certitudes was reflected in the key strategic recommendations presented in the FIAG report, entitled *Hard Choices—Bright Prospects*. One recommendation was to develop an assured long-

term supply of quality wood resources for industrial use. Another was to address the capital formation challenge surrounding reinvestment and the challenge of attracting new investment.

Security regarding tenure and wood supply has always been critical to the forest industry's ability to raise the capital necessary to enhance operations, to remain competitive. It has become even more important today, as increased competition for the land base throughout North America has further focused investor attention on wood supply as a key component in evaluating investment potential. Reducing security of tenure threatens investment.

It was sufficient in the 1980s to deal with tenure in the ground rules of the forest management agreements, as they were legal contractual agreements which could not be amended without the signatories' consent. Today, however, with the heightened due diligence and expectations of the financial community, it is no longer sufficient to rely on an arrangement outside of legislation. This scrutiny would become even greater if this legislation, which turns agreements that are legally binding on both sides into licences, is enacted as written.

This would be in direct conflict with the recommendations made by FIAG regarding wood supply and capital formation. It would discourage new investment by existing companies in the province and it would send a clear message to prospective investors about the heightened risk and the uncertainty faced by Ontario's forest companies.

We also require healthy relationships with government and with other users of the forest. The existing forest management agreements are examples of successful partnerships. This is evidenced by the quantity and the quality of renewal efforts in this province. The need for partnerships with the users of the forest was recognized in the environmental assessment ruling and is being demonstrated further by some of our members' participation in the federal government's model forest program. Legislation should and legislation must provide for continuous improvement in developing these partnerships.

In conclusion to the body of this brief, Bill 171 is not good legislation. It is not good for our forest environment, it is not good for our forest industry and it is not good for the people of Ontario.

Our province needs legislation that will stimulate excellence in forest management, and it is only through a process of intensive, meaningful dialogue with the groups that are directly affected that we will ensure that the goals of this legislation are fully realized. We must act to consult before passing 171 into law. In doing that, we can build on the strengths of the past; we can ensure that those who will be impacted have a greater understanding of their role and then a greater sense of security; we can increase clarity with respect to obligations, responsibilities and accountabilities; and we can be constructive, moving to an advanced level of dialogue and forest management.

Good forest management is critical to the forest industry. So is good legislation. Members of the committee, we urge you to be visionaries and ensure that the

necessary changes are made to this bill so that Ontario truly becomes a world-class leader in sustainable forest management; so that forest product companies are helped, not hindered, in their quest to become nationally and internationally certified; so that forest product companies and the communities they support are sustainable; and so that resource managers are given the tools to manage to the best of their ability and not to the lowest available denominator. Do not limit us to mediocrity. Challenge us and allow us to excel.

The Acting Chair: I understand that you're also making the next presentation.

Ms Rauter: That's right.

The Acting Chair: Would you agree to having us listen to your presentation and then proceed with the questions?

Ms Rauter: That would be terrific.

The Acting Chair: So let's do it that way.

Ms Rauter: For the second presentation, I would also like to bring up to the front with me Mr Ken Armson. Ken Armson has been a professor of forestry at the University of Toronto. He was also chief forester and executive director of the forest resources branch for the Ministry of Natural Resources. He is also a lead working with the Canadian Standards Association in trying to get certification for forest management so that we can be recognized in the national and international marketplace.

For my second presentation, I would like to highlight some of the specific clauses in the legislation which will indicate why we feel we need some major changes in this legislation to be able to move forward and to provide sustainable forests, sustainable forest industry, and for the people of Ontario to have some security and knowledge that these forests and that this industry and the northern communities and also many southern communities will be here for a long time to come.

The first would be in section 1, the purposes. It reads, "The purposes of this act are to provide for the sustainability of crown forests and, in accordance with that objective, to manage crown forests to meet social, economic and environmental needs of present and future generations."

Unfortunately, the body of this act or this bill does not reflect the purpose. Simply changing "timber" to "forest" will not ensure sustainability of crown forests. Sustainability, as we mentioned earlier, cannot be legislated, but the process for facilitating it, encouraging it, can be.

This contravenes many of the decisions of the timber EA board and, if passed, could require another EA hearing. We would recommend that to ensure forest sustainability, this act must be the umbrella legislation for all activities in the forest. If it is for activities as they relate to trees, "forest" must be replaced with "timber" to be consistent with the timber EA ruling.

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Alternatively, if "forest resource" is redefined in this legislation, "forest" could be replaced with "forest resource" and we feel it would still honour the intent of the EA legislation. This legislation does not have definitions for either "forest" or "timber," only for "forest resource."

Section 4, "Application: provincial parks," is an exemption. Again, when we talk about forest sustainability, it has to be all of the forest; you cannot exempt certain parts of the forest. So we feel that provincial parks and all aspects, all components of the forests, should be there.

Then, when it comes to a definition, I know you have heard from many people that you should use the definition in the Diversity document. That definition can be applied if legislation is applicable to all operations and all crown forests. If it is only for the working forest, and really this legislation as written is only for the working forest, I wish you would consider the working definition for sustainable forest management that is being proposed and is being discussed within the Canadian Standards Association.

Another aspect of this legislation which is in direct conflict with the environmental assessment is the way section 12 is written on local citizens' committees. It's not that the minister "may" establish local citizens' committees, the EA ruling says the minister "will" establish committees, and it will establish committees at provincial, regional and local levels.

I know you've had some discussion with some previous presenters as to what should be in there, how should these be set up and what should be done. This is all outlined for you in the environmental assessment ruling. If you do something different, you are going to be in conflict with the decision of the ruling. Please don't throw out those terms and conditions in that ruling. There were four a half years of hearings, where all parties had full opportunity to give evidence, and that ruling is binding. The government, the industry and many other parties spent millions of dollars and there was some very good information put forward. Please make sure that you look at those terms and conditions in the environmental assessment ruling and don't have legislation that conflicts with those decisions.

Another section of the bill, the sustainable forest licences: This is where the current forest management agreements would be converted to licences. They are changing an agreement which has been developed by two parties through negotiations into a licence which can be changed unilaterally. That is not our definition of partnership. This change is a major deterrent to forest sustainability and is in direct conflict with the government's policy to build partnerships. The term should be "sustainable forest resource agreement," and the section should state "...activities necessary to provide for the sustainability of those forest resources licensed in the area covered by the licence." "Sustainability" and "forest" need to be defined and "forest resource" redefined, as we have talked about earlier in this clause-by-clause.

Another major concern is section 72, transitional provisions on the sustainable forest resources. We again feel that this is regressive legislation, regressive action, which raises serious concerns about this government's intent to honour its commitments. Section 6 of the Crown Timber Act provides exemptions from provisions of the Crown Timber Act that section 23 of this act does not provide. An agreement entered into under section 6 of the

Crown Timber Act should become an agreement in this act. This section must provide the same rights provided in section 6 of the Crown Timber Act.

Following with the next subsection, subsection 72(2), "No action or other proceeding shall be brought in respect of loss or damage arising from the enactment of subsection (1)." This is regressive and again is a major deterrent to partnership, good forest management and to forest sustainability. The minister is unilaterally abrogating critical components of the forest management agreements and extinguishing the agreement holder's right to recourse. This section must be deleted.

Those are some of the areas that are examples that I think illustrate what we tried to describe in the body of the brief and I would like to open the rest of the time we have available for questions.

Mr Michael A. Brown (Algoma-Manitoulin): Good morning, and thank you for coming. This is one of the most comprehensive briefs we have received. You've expressed a number of the concerns that other presenters have expressed, particularly with regard to sustainability. I was interested in your argument regarding the Diversity document and its definition of sustainability. Perhaps you could help me understand that area a little better.

Ms Rauter: The Diversity document's definition is "to ensure the long-term health of our forest ecosystems for the benefit of the local and global environment, while enabling present and future generations to meet their material and social needs." That's a slight modification of the definition for "sustainable development." As to "the long-term health of our forest ecosystems," we want the long-term health of all our forest, and you will manage the working forest for the forest industry differently than you will manage an area that you have set aside for old-growth forest or a provincial park that you have set aside for tourism and recreation, so that definition is a much broader one that encompasses all of that.

The Canadian Standards Association has tried to put a definition which is more of a working definition, so it gives you a little more in terms of: If you are going to be managing the land for a forest resource, how do you establish objectives and criteria? So it is a working definition, whereas this is an overall definition.

Mr Brown: The other definition that has been of special concern, it seems to me, is "ecosystem" itself, "forest ecosystem." It strikes me that the boundaries we have, whether they're on FMAs or crown land units or whatever they happen to be, do not necessarily follow ecosystem boundaries. I've been perplexed at trying to understand, first, exactly what a forest ecosystem is and, second, how management would occur to manage an ecosystem when it crosses the boundaries between management units or FMAs or whatever the situation is.

Ms Rauter: I think Mr Armson can talk to ecosystems.

Mr Kenneth Armson: Your being perplexed is not surprising, because the Environmental Assessment Board was somewhat perplexed and I had occasion to speak about this with it.

The term "ecosystem" was basically introduced many

years ago by an ecologist to describe the way in which you might look at organisms in their environment in relation to processes and so on. In other words, it was a concept and conceptual. What has happened, over the last few years particularly, is that it has come to define, in many people's minds, an area, a space, something you could draw a line on a map for. But that was not the concept and still basically is not the fundamental concept, and that is that you look at an organism. For example, if we talk about a jack pine forest, there are jack pine trees, there are all kinds of other organisms there. When we think about it that way, we're talking about it as an ecosystem. But when we put a line on a map, we're defining an area of ground with various elements there.

1030

It's conceptual. The problem is that when we talk about a jack pine forest ecosystem, we're really saying we're embracing all the elements and the processes that are there. When we talk about an area of jack pine that's going to be harvested or to be planted or so on, we're talking about discrete areas. Does that help?

Mr Brown: Well, it's getting me down the road, I guess. The problem is, we do have to draw lines. The other problem I have with that definition is trying to decide which ecosystem we're talking about. Is it the one that existed at the turn of the century perhaps, before the forest was ever harvested, is it the one we have today, or is it the one that we want 70 years from now? I think those are valid questions, and I've been having difficulty understanding. I mean, a farmer sometimes plants wheat and sometimes plants corn on the same land. Obviously, they're different ecosystems if you look at the farm. In forestry, in the commercial forests or the industrial forests or the working forests, whatever, presumably you might want to have more conifers in that area than are there today, or maybe you don't.

Ms Rauter: In terms of managing, one of the things we sometimes forget about is that the basic resource we have is the soil, so we need to make sure that whatever is regenerated on a piece of land is suitable to the soil. You're right that in some instances there may be poplars and in other instances jack pine, but the same soil may accommodate both.

What is important when we talk about sustainability is to ensure that we don't lose much of the biodiversity, the species we're dealing with, or the genetic diversity of some of those. That is why we must manage for the entire crown forest, not only for the working forest. In the areas you will have set aside, you will be maintaining different components of an ecosystem through the rotation age than you will necessarily have in the harvested area, but you will still manage the harvested working forest in such a way that you do not lose its capacity to produce at least at the level that nature had it producing.

Mr Brown: One of the most disturbing things about your presentation today is your remarks about the environmental assessment and how this act is in conflict with a multimillion-dollar six- or seven-year project that consumed the resources of the industry, the province, various interest groups, and has rendered a decision which the

government itself has accepted, and that this act would be in violation of various parts of it. I find that extraordinary.

Ms Rauter: We are very concerned about that. We are very concerned because it was an environmental assessment for timber management and that is what we have the approval for. There were parties that asked to have timber management expanded to forest management, and the ministry several times gave evidence that it was not appropriate to have approval for forest management but rather to do it for timber management while taking into account the other values of the forest. That is very different from forest management.

We are headed down the road for forest management, but the terms and conditions of that EA board ruling are for timber management. It is for the information to be collected, for plans to be prepared, and for operations to be based on that ruling. It is not for forest management. If you have legislation that is for forest management, you are liable to be subject to another full-blown environmental assessment hearing. I think that would be a tragedy, considering that we underwent four and a half years of hearings and, I don't know, 20,000 or 30,000 pages of evidence.

Mr Frank Miclash (Kenora): Marie, thank you very much for your presentation. As Mr Brown indicated, it's quite in-depth and you have some excellent recommendations here.

Going to section 12, the local citizens' committees, as you indicated, the terms and conditions of the EA board state very clearly that the MNR will establish the committees. In your recommendation, you're suggesting that the act should establish the trilevel committee. Can you expand on what you would see that trilevel committee being and its mandate?

Ms Rauter: If I can say, a number of our companies have already established those local citizens' committees even prior to the terms and conditions of the EA coming out. That's very much on the ground, in terms of, for example, if you have a cottagers' association on the committee—let me step back a bit.

The way the process worked in the past is that you would write a timber management plan and then you would have an open house. When you had an open house, you had some poor soul who had spent two years of his life writing a timber management plan, so when the public comes to criticize, the authors are not there with the same open mind for change because they have already, in their minds, determined how they think the process can best be done in terms of the plan.

With the local citizens' group, the intent is that before any words be put to paper, the local citizens' group would sit down and you would have a chair and you would know that you needed to harvest an area and you needed to renew and manage an area. If a cottager had a problem, he would identify that problem, or if somebody had a particular fishing lake that was back in the bush and they didn't want the road to go right by it, you would then have the opportunity, sitting around a table, to dialogue, and maybe the road would change and maybe some of these harvest set-asides would change.

You have this opportunity to dialogue back and forth, and that's the local citizens' committee, so that by the time a management plan is written you have avoided and eliminated much of the potential conflict.

We also felt at the top end that you needed a provincial advisory committee, because you needed to know, what were the desires of the people in terms of sustainability of the province? Did they want the moose population to increase? Did they want the forest industry to increase? Did they want old-growth areas to increase? You would do that as the umbrella provincial direction in terms of advising the minister.

But to go from the local citizen group to the top provincial advisory group was too much of a jump, so there was the regional one.

The timber EA terms and conditions very nicely delineates these three levels.

If I may say, that proposal was put forward by the forest industry, and there were a lot of groups that were very surprised to believe that the forest industry could be as progressive as to want consultation to try to avoid some of this conflict and to try to develop some of these partnerships at the very early stages of planning.

Mr Chris Hodgson (Victoria-Haliburton): Thank you, Marie. I've really enjoyed your presentation. It's quite detailed and I'm sure I'll get around to reading schedule A some time tonight.

If you've been following the hearings, we went for a two-week tour through northern Ontario, and we heard similar concerns. But yesterday, back in Toronto, we had a whole day, and people expressed grave concerns. I find there's a bit of common ground here in the nature of their concerns about Bill 171. You represent the industry, and if I can characterize the people, they represent maybe the provincial interest of ensuring the ecosystems or the environment. Do you want to comment on that?

Ms Rauter: There is a lot of common ground. There is the perception in some circles that the forest industry is not interested in a healthy forest. There is no one more interested in a healthy forest than the forest industry, one of the reasons being that if we are to put in some of the capital operations that are required for making pulp, for making paper, we're looking at millions and hundreds of millions of dollars of expenditures. You do not go into a forest, cut it and leave it, in order to get the return on that investment. You get that investment return over a very, very long period of time. In order for those operations to continue, you need to have a healthy forest.

1040

Mr Hodgson: You've mentioned that this act comes up short in a number of areas, but in your conclusion—and Gary and I will go back to the caucus before this comes to third reading—you're suggesting that this committee ensure the necessary changes are made to the bill. But a lot of the changes you're referring to are going to take a lot of consultation and discussion with the interested parties, people who have appeared before our committee and more outside in the community. What would your recommendation be to us, before we ensure the necessary changes are made: to send it back to the workshops?

Ms Rauter: You have two choices. One choice would be to take a look at all of the clause-by-clause recommendations of all of the parties and try and put them together to do some revisions. That is the same as taking a dress that has already been made for a size 10 person, and they've gained a few pounds, and you're now going to try and revamp it to accommodate somebody who's now a size 16. It's piecemeal, and it's never as good as if you do it right from the beginning.

You can do that, but I don't think the legislation you're going to have at the end of the day is going to be good legislation. It will be legislation and it will accommodate certain things in certain parts. I think you do need a tremendous amount of meaningful dialogue, taking another look at the terms and conditions of the EA, taking some of the good parts out of this legislation, and then packaging it in such a way that it's going to take us into the next century.

Other than the minor—well, they weren't minor; they were major—amendments in June of this year for the trust funds, we never really had very many major amendments until back into 1980. So this legislation, whatever goes through here, will probably never see the light of day again until maybe 2010. That's a long time. We need to make sure between now and then that we've got the legislation that's going to get us there.

Don't restrict yourselves and just try and do legislation. I think this encourages minimum standards. Please take a look at how you can, as I say, challenge us. Challenge us for excellence. I really think that if you wanted to do a good job, it's almost: Go back to square one and build. You've got a lot of good information out there. You've got a meaningful consultation process that you can set up. Do that, and ensure good legislation.

We're certainly a group that has said we don't want process for process' sake, and we don't want to be seen as dragging our feet because we don't want new legislation. We want new legislation, but we want good legislation. We would like the process set up so that we can at the end of the day have good legislation.

Mr Hodgson: Is there is a crisis with the status quo today? Given the fact that the trust funds are set up under Bill 160, given the fact that the EA calls for a number of changes that have to happen, do you see anything besides politics that would dictate a hasty passage of this bill?

Ms Rauter: There would have been need for hasty passage if the trust fund had not been amended in June. Now that that is there, that is one thing that will certainly enable us to move forward in that whole concept. And that is one thing that I think also will give the people of Ontario some assurance that when a forest is harvested, it will be satisfactorily regenerated. I think that was a major key and a major concern of the people of Ontario.

Also, in terms of the terms and conditions of the EA, something that I think is required is for government to take a look at those terms and conditions and start putting the schedules and the roles and responsibilities all together to make sure that those terms and conditions are implemented and then to have us try to move forward to forest management. We're now at timber management, taking into account other values. But we need to move

down that road and we are starting to move down that road. The model forest program is one very good example of trying to get down that road.

Mr Hodgson: We've made application for a model forest in our area, as you're probably aware; it wasn't accepted by the government, but it was close. I really appreciate your coming in and spending the whole hour with us. It's been of benefit. Thank you.

Ms Rauter: Thank you very much.

Mr Len Wood (Cochrane North): Thank you for coming forward with a broad definition of the way you see Bill 171, the changes you'd like to make.

As to the environmental assessment ruling that came down, the government agrees with the terms and conditions wholeheartedly. There's no attempt in drafting the legislation to avoid the decision that came down. We've stated that in the Legislature. Bill 171 has been drafted around the decision, based on the decision that came down. This is the feeling we have, based on discussions with the stakeholders out there, with the various industries, with the thousands of people who have been involved in the regulations, manuals. Yet in your presentation you're saying that your interpretation is that the terms and conditions of the EA are not being fully covered under Bill 171.

Ms Rauter: They're more than not fully covered. It doesn't matter whether they're covered in this legislation or not, because the EA ruling is law and it has to be implemented. You don't need this legislation to implement the terms and conditions of the EA ruling.

Our concern is that some of the sections of this legislation are in conflict with the EA ruling. The question I asked our lawyers was, does one supersede another? The response was that if this legislation is written and it says one thing, and the EA legislation is written and it says something else for the same issue, the only way it's going to be settled is to be challenged in the court system. I think last thing we want is a litigious system, the last thing we want is for the courts to determine which piece of legislation supersedes another.

That is why we are urging you that with it being defined as forest management plans, that is in conflict with the EA ruling. We do not have approval for forest management plans.

Mr Wood: The EA decision, from what I understand, specifically states that nothing in the decision prevents the MNR from moving from timber to forest management.

Ms Rauter: That's correct, but under the Environmental Assessment Act we only have approval to operate timber management plans—under the Environmental Assessment Act, not under the EA ruling. Under the Environmental Assessment Act we only have approval for timber. Under the Environmental Assessment Act it can say: "Okay, you have approval. You are legally able to practice timber management. You do not have approval to practice forest management." Yes, we should be moving towards forest management and we are moving towards forest management—the government is, the industry is—but this legislation says "forest management

plans.” We do not have approval for forest management plans under the act for environmental assessment, not the ruling of the EA board—two very different things.

Mr Wood: I guess I can get on to another concern. Some of the recommendations—and the government was well aware of some of the decisions that were going to be handed down during the EA—have been implemented over a numbers of years. I’m sure the local citizens’ committees, of which we’ve had three or four who have come and presented—

Ms Rauter: That’s right.

Mr Wood: Some of them can be named. There are the community forests, which are doing a fantastic job out there. It’s covered under the new legislation, which wasn’t covered under the old timber act so much, even though the word “sustainability” has been around; since 1926 under the timber act, it was referring to timber. The people in the province of Ontario, and the government being the landlord and responsible for it, basically are saying they want to move to forest management instead of talking about only timber.

1050

Ms Rauter: Let me give you an example of this legislation. The way this legislation is written, it says that for any forest resource extraction, you shall measure and count according to the scaling manual. If you’ve got a forest management plan and your extraction is blueberries, the way this legislation is written, section 42, on methods of measurement, says, “A person shall not remove forest resources...from the place of harvesting unless the resources have been measured and counted by a licensed scaler.” If that forest resource happens to be blueberries, it means you will have to measure and count the blueberries by a licensed scaler.

Mr Wood: On the same concept, we manage the moose population, we manage the deer population, we manage the bear population, and we have committed ourselves as a government that it will be done on a sustainability basis. If 150,000 people apply for moose licences for adult moose, we’re not going to allow them all to get licences; we’re going to maintain a certain moose population—the same way we have to maintain a certain amount of trees that are going to be naturally regenerated or planted or whatever to maintain this, sustainable hundreds and hundreds of years down the road.

Ms Rauter: Exactly, and that’s why we’re saying the title of this act, of this bill, does not reflect the content. Crown forest sustainability and the definition for “forest” today are very different from the definition of “forest” 20 years ago. The definition of “forest” today is all plants and all wildlife. That’s why we feel that if you want to entitle a crown forest sustainability act, all of those good things you are doing must be under the umbrella of this legislation and then sublegislation for each component. But the way it is now, you’ve got different pieces of legislation for the same piece of land. You must have legislation, if you want to talk about forest sustainability, that encompasses all uses, and that includes the anglers, the hunters, the tourists.

Mr Wood: I understand that the members of your

association have been involved over the last six months with the intense negotiations that are at the present moment, as we’re speaking, taking place with your member companies—

Ms Rauter: With Carman?

Mr Wood: —negotiating what is called the Bob Carman exercise, and that agreements are very close to being signed with some particular members of your association. I just wonder if you want to reflect on that.

Ms Rauter: Yes, and with respect to those negotiations, Bob Carman, by just about all companies, has been told of the concern about what this legislation means, and that there are some companies that will be looking at certain amendments, but that does not mean they are very close to signing the entire package deal. One of the reasons they’re very concerned is because of the way this legislation reads.

Mr Wood: I’m sure we could go on for an hour with comments back and forth, having a history of close to 30 years in the pulp and paper industry in northern Ontario and being anxious to see some changes made, but I’ll give my time to Gord. Gord Mills has some questions.

Mr Gordon Mills (Durham East): First of all, thank you for coming. I listened, believe it or not, very intently to everything you said, and my immediate reaction was that Bill 171 must be a disaster because of all I heard you say, particularly your comments about the environmental assessment.

There are two questions I’d like to ask you. I understand there were some preparations for the manual, and I just wonder if you had any input into that. Second, were all these concerns you’ve brought forward this morning brought forward at that time? I’m interested to know, is this the first time we’ve heard all of this?

Ms Rauter: No, it’s not. How far back to go? When we first heard this legislation was being drafted, we requested the opportunity for discussions to discuss what was in the draft and how to move forward. We were not afforded that opportunity. When first reading came down—

Mr Anthony Perruzza (Downsview): Was a reason given?

Ms Rauter: We were just told that it was in the very preliminary stages and there was not the opportunity. We did that several times, asked both at the bureaucratic level and at the political level, and we were not afforded an opportunity for discussion prior to first reading.

Mr George Mammoliti (Yorkview): Verbally or in writing?

Ms Rauter: Verbally.

The Acting Chair: Order, please. Mr Mills has the floor.

Mr Perruzza: Do you have the names of the people you spoke to in that regard?

Ms Rauter: Not just now.

The Acting Chair: Order.

Ms Rauter: Mr Chair, do you mind if I could just finish?

Interjection.

The Acting Chair: Order, please.

Ms Rauter: If I could go through the sequence of events—

Mr Mammoliti: These are really important questions, Mr Chair.

The Acting Chair: Yes. Wait your turn, please.

Ms Rauter: We were quite concerned. We supported new legislation; we wanted legislation. Then, when first reading came out, we did have an opportunity to meet with some of the ministry people and I suspect they probably appreciate some of our concerns, but again, when you have worked day and night on something and you think you've done the best job possible, when another party comes and starts to tear it apart, you get very defensive and start justifying what you did instead of trying to understand where another party is coming from.

When we saw that guidelines and manuals were in the legislation, we asked if we could participate. Even though we've had downsizing and we've had trouble in participating in a number of initiatives that the MNR has had, I committed to the minister that we would find the bodies. So we helped in terms of some of the preliminary work with those guidelines, and I think both the ministry and the industry people who were sitting there were really trying to do a job.

One of the problems is that it's only a first cut. It's been done at such a pace that—as I understand from some of our people, they had a particular date where they thought they were going to write their chapter and submit it so the rest of the committee could look at it, but there was not the time even for review of different chapters because the deadline dates had passed, because your committee was starting, and they needed to get something out for the public to read. So even though we've been there, there's not been the opportunity to really fully discuss what's in there and how we're going to move forward.

The Acting Chair: You have a short question?

Mr Mammoliti: I'm wanting to know why you didn't put all of this in writing. If there was some communication both with bureaucrats and political staff, why did you not put it in writing and why wouldn't you want something in writing responded to you?

Ms Rauter: I guess because I really try to work with people and I don't like to have to use that as a recourse. I suspect that if I go to my correspondence, there is a letter to the Premier that indicates the concern we've had with some of the actions over the last six or eight months, but that's not the type of thing I like to go public with.

Mr Mammoliti: The issue here is your request to have input with the ministry. My concern is that perhaps in future—my recommendation to you would be to put it in writing. To come to a committee and say, "No, we haven't had any input and we're upset that we didn't have any input," but at the same time, it was all verbal—I find that, at this point and at this level, unacceptable. We would like to see it in writing in the future.

The Acting Chair: I'm afraid I'll have to cut you off. The time has expired. Thank you very much for your presentation.

Ms Rauter: Thank you very much.

WILDLANDS LEAGUE,

CANADIAN PARKS AND WILDERNESS SOCIETY

The Acting Chair: We will now proceed with the next presenter, the Wildlands League, Canadian Parks and Wilderness Society.

Interjection: It's not quite 11 yet.

Mr Brown: Call the cops.

Mr Mammoliti: Mr Chair, we're not allowed to speak here. Mr Brown, we're not allowed to speak.

The Acting Chair: I'm trying to be fair with every one. I follow the clock very closely, and I can assure you that the Chair is extremely fair.

Mr Gray, good morning. You have half an hour for your presentation. Whatever time is left after you've made your presentation will be divided equally among the three parties and this will be the time for them to ask you questions. So the total exercise is for half an hour.

Mr Tim Gray: For half an hour? A 15-minute presentation, then?

The Acting Chair: Whatever time you want to take for your presentation, if you want to start now.

1100

Mr Gray: Good morning. Thank you for the opportunity to present to the standing committee regarding the Crown Forest Sustainability Act. My name is Tim Gray. I'm the executive director of the Wildlands League, which is a chapter of the Canadian Parks and Wilderness Society based here in Toronto. We are an organization that was founded in 1968. We have 16,000 members nationally. Our focus is on protecting representative natural areas in a wilderness designation or parks, and also working to develop sustainable management of crown and private lands throughout the country.

My involvement with the organization began in 1988, and I've been involved with forest issues in Ontario on a volunteer basis and on a professional basis since the mid-1980s. We've been involved in the class environmental assessment on timber management. I sat as a member of the old-growth forests policy advisory committee for the last two years. I'm also the national coordinator of the World Wildlife Fund Canada endangered spaces program.

What I'm going to do is provide what I see as a brief overview of forest issues in Ontario since the mid-1980s and bring us to where we are today with the Crown Forest Sustainability Act. In the early 1980s, the Ministry of Natural Resources was asked to prepare an environmental assessment of its activities—how timber management, timber harvest, affects crown lands in Ontario—as a requirement under the Environmental Assessment Act.

The development of that document started in the mid-1980s and we got to the hearing stage by 1987, and after long years of hearings, which I'm sure everyone has heard about in some way or another, we finished that up. We heard endless testimony about the impacts of forest harvest in northern Ontario, the economic consequences,

the ecological consequences. A lot of time, money and effort by all parties involved was spent.

In the late 1980s, there was a consultants' report done for the Ministry of Natural Resources as a way of trying to figure out what was wrong with what was happening in the forest and what should be done at a provincial level, at a policy level, by the government to fix the situation.

Then the 1990 election occurred and the New Democratic Party took office and launched the sustainable forestry program.

Since then, there have been two agendas going on within the Ministry of Natural Resources: One I'll call the forest agenda, and the other one is the timber agenda.

The forest agenda included a lot of the programs under the sustainable forestry initiative: the forest policy panel; the old-growth forest initiative; the wildlife strategy; the audit of regeneration in the boreal forest; endangered species commitments to complete our protected areas system by the year 2000; changes to the fish and wildlife act in Bill 162; promises of new endangered species legislation; and promises to revise the badly outdated parks act.

On the other side of the agenda, the timber agenda, was old-style MNR: Timber comes first; the forests are only a source of fibre. That included programs such as the timber production policy, the Forest Industry Action Group, and the outcome of the class environmental assessment.

I think everyone in this room sitting behind me was intimately involved in all those things, from policy staff with the Ministry of Natural Resources to NGOs to business groups to members of the general public. We have been, as I'm sure lots of people have told you in these hearings around the province, consulted to death about what we wanted to happen with Ontario's forests.

Almost every single committee travelled extensively throughout the forests of Ontario and the towns of Ontario trying to come up with what the Ontario public could live with and where it wanted to go in the management of its forests. At the end of the day, and this really is the end of the day, we have come up with a broad level of consensus on the forestry side of the agenda. When everybody started into this process in 1990, I think you wouldn't have found very much optimism that anything productive would come out of it. It's not often that you can get the forest industry and all the different environmental interests, tourism interests, municipalities and everybody to sit down and come up with a set of common principles they can agree upon.

There are documents such as:

—The Ontario Forest Policy Panel's report, which was developed with a wide consensus, and generally roundly supported by everyone in the province who took part in it.

—The old-growth forest policy panel, which I sat on, which had representatives from all those different stakeholder groups, produced a consensus report telling the government to implement protection for old-growth forests.

—Wild Life Strategy for Ontario, multi-sector again.

—The boreal audits, which show that we do not have sufficient regeneration in our forests in northern Ontario.

With all these things, I think people saw: "Okay, this is what the problem is. Here's what some solutions are. Let's move ahead." The sustainable forestry agenda issues have broad public support, have had broad public involvement, and have had the expertise and the new vision for where we need to go forward brought into them. The old-style, 1970s MNR approach to forestry—timber management—is reflected in the class environmental assessment, reflected in the decision to arbitrarily increase the provincial harvest by 50% and to move forward with a timber production policy that does not reflect ecosystem thinking.

Now we're at the point, in the summer of 1994, where we have to make a choice. We need a new act. In fact, our organization and several others have been asking for all of the forestry agenda items to be consolidated into a new act for some time, so I was very pleased in May of this year when I heard from the Ministry of Natural Resources and from the NDP that they would be coming forward with a new act that would consolidate these initiatives. I must say it was very, very disappointing to sit down with the draft just a couple of days before it went to the House for first reading to realize that what we were seeing was not the new forest sustainability act but the Crown Timber Act, part 2, 1994 version.

So now here we are. We've got three and a half, four years of public debate during this government, we've got God knows how many years of debate under the Tory government, two years under the Liberal government, and this act in its current form is going to wrap all of that discussion together and take us back to 1964. I think we should consider very, very carefully the implications of doing that.

If we pass this act as it stands, we'll have no clear rules for sustainability and no definition. We'll have no rules for the forest managers to use. We'll have no guarantees for other users of the forest that their interests will be provided for.

You can imagine, if you're a field manager working for the Ministry of Natural Resources and you've been told that you're going to practice sustainable management and there's no definition of it in the act that encompasses this, there's no definition in the regulations, there's no definition in the manuals that you have to use on a day-to-day basis about what it is that you're supposed to be sustaining, what are you going to do? You're going to give in to whatever the demand of the day is. If the demand of the day is that a mill that's unsustainable needs more wood, you're going to give in. If it's for a particular local tourism operation that happens to be very strong and very, very vocal, maybe you'll give in and the mill won't get some wood. If it's an environmental dispute that becomes international, maybe you'll give in on that. Because you've got no basis to work from: You've got no definitions; you've got nothing to hang your hat on.

This act in its current form also helps to preclude the protection of our protected areas system, and is in fact a

backtracking from the existing Crown Timber Act. There will be no way, if this act is passed, during the period in which timber licences are signed, to withdraw land for other purposes, either for protected areas or to settle native land claims. Effectively, this act will make timber management planning the land use planning of northern Ontario, and it's solely unsuited to do that.

The international reputation of Ontario is going to suffer if this act is passed. I have submitted to you copies of letters from the World Wildlife Fund for Nature in Switzerland, the World Wildlife Fund for Nature UK, and one from World Wildlife Fund Canada. This will become both a national and international issue. There are moves afoot in this province and nationally to certify the logging industry as sustainable. If this act is passed it'll make that very, very difficult for that to occur in Ontario. International pressure will increase if this act goes ahead and we back off on our commitments here to bring in sustainable forestry and a completed protected areas system.

When we get to this point in this province, the general public really has to ask themselves, "Why did we participate for all this time, go through all these processes, sit in these long meetings with industry to come up with consensus only to have it ignored by government?" I think people are very, very tired of it.

I think it's your obligation as this committee to make sure that changes are made to this bill that require sustainability to occur in this province—not just to suggest that it may occur or allow it to be developed at some time in the future, but to include clear, concise objectives for how forest managers can carry out sustainability in the field.

This act does not have to pass the way it is. We don't have to go down the road of increasing conflict and having legislation that takes us back to 1964. There is a choice here, and I think we need to make it today. Thank you very much.

1110

Mr Gary Carr (Oakville South): Thank you very much for your presentation. You said that as a result of this bill there will be no clear rules, no definition, and you just summed up by saying it would take us back to 1964. I take it, then, if you were me and you had a vote on third reading, you would like us to vote against this bill?

Mr Gray: If this act is not substantively modified, I would definitely vote against it.

Mr Carr: You may have heard the forest industry say the same thing as we went across northern Ontario. They said to vote against it, for different reasons. We've had all this consultation over the last little while. Do you think we can ever come to some consensus where we would get everybody around the table to agree?

Mr Gray: Yes, I think so. This spring, cabinet adopted the principles of forest sustainability, for example, from the Ontario Forest Policy Panel. That particular exercise was carried out with a huge amount of public consultation. I think they stopped in 40 different communities and spoke to thousands of people. The level of discussion about forest issues in that process was so

much broader than a committee is able to carry out, say, when you have a very short time in the middle of the summer.

You may be hearing, when you go to the towns in which you've been in the last few weeks, a lot of confusion or a lot of discussion about what it is that people want. But you have had a group of fairly expert individuals that developed that policy and it was adopted by cabinet, and I haven't heard a lot of complaint or a lot of people saying it doesn't reflect what we want from our forests. I think there's a high degree of consensus there.

Cabinet saw fit to adopt it as policy, and when the act was announced in the spring there was a commitment that the act would reflect those principles of forest sustainability, but that didn't turn out to be true. They're not reflected in the act.

So I don't think it's that difficult to do it. I think the biological imperative inherent in the concept of sustainability is understandable to most people. We're moving towards that in British Columbia, we're moving towards that in the United States, we're moving to that in Nova Scotia. Ontario doesn't want to be the last one on the boat.

Mr Carr: This makes it difficult. As I went through the north, the biggest employer in Kapuskasing, Spruce Falls, said to vote against it; Avenor did, the biggest in Thunder Bay; E.B. Eddy. It makes it very difficult. Groups have come in and said there are so many problems in it.

There is an opportunity for amendments. Maybe you heard the forest industry using the analogy of trying to fit somebody into a size 16 dress when it was made for a size 10. Do you think there can be any amendments come forward? As you know, you've got ministry staff here who can present amendments that are coming up in clause-by-clause. Do you think the bill can be—and I hate to use this term—"fixed" through amendments in clause-by-clause, or do you favour what the forest industry said this morning, to go back and do it right from the beginning? Do you think it can be fixed in clause-by-clause or should we start again?

Mr Gray: I think its basic framework can probably survive. We submitted our brief yesterday; Chris Lompart from the Federation of Ontario Naturalists handed in a joint submission that a lot of the NGOs worked on together. We have gone through the act in a sort of a clause-by-clause way, looking at what the things are that need to be changed. I'd be willing to work with the existing act to make those changes; I don't think it has to be thrown out. But there's just no way it should pass in its current form.

Mr Carr: As you know, so much is in regulations. One of the reasons that governments—and I don't say this government—puts it in regulations is that it allows for a tremendous amount of flexibility. You talked about the people at MNR in the field. Whoever the minister is can basically dictate, without legislation, how the act should be interpreted. It gives broad, broad powers to the minister. I guess if you're the minister of the day you think it's a good thing, but knowing that governments change and probably will change—of all political

stripes—do you think we are giving the ministry too much power through this act to decide and interpret rather than doing it through legislation, which of course makes it more difficult for the minister to challenge?

Mr Gray: Certain key things need to be in legislation, both to protect the minister and the government and the public but also to make things very clear for managers because they know what the bottom line is.

The exact opposite approach to what is being pursued here in Ontario is being pursued by British Columbia. Here in Ontario we've chosen to leave everything out of the legislation and, as far as I can tell so far, leave everything out of the regulations and the manuals as well. But in BC they've taken a much more legislation-oriented position where they've tried to put virtually everything, every practice you can imagine, into the legislation. I don't think that's necessarily the way to go either, but there's got to be some guarantees to the public and to the crown that forests are going to be managed on a sustainable basis.

Especially for the ruling party of the day, it's going to be very important in the future, because more and more, the responsibility for forest management is going to lie with industry. I mean, a section of this act deals with the development of trust funds to facilitate that transfer. If there are no rules, no audit procedures and no accountability for how the forest industry is managing Ontario's forests, first of all, how will we know? And second, how will we force it to happen if it isn't occurring? I think those sorts of minimum guarantees need to be in legislation. You don't want to legislate exactly how far apart the trees have to be cut when you're spacing them after a harvest or something; those things can be done in manuals. But as to the broader objectives and principles, there's absolutely no reason those can't be in legislation.

Mr Carr: Thank you, and good luck.

Mr Wood: Thank you very much for bringing forward your ideas and suggestions. Just a couple of comments and maybe a question. I understand that you or your organization were involved in the drafting of the manuals during the month of July?

Mr Gray: No. We went to a workshop to review what had been prepared. I would not at all say that we were involved in the drafting of the manuals whatsoever.

Mr Wood: But you were involved in the workshop?

Mr Gray: Yes, we were involved in the workshop.

Mr Wood: There has been some concern that more has to be put in the legislation compared with the regulations and manuals. The manuals, because of the way the regulations are drafted, are binding, and the legislation means very little without the regulations and the manuals that follow. I understand workshops are still going on, as we speak, in revisions and correcting spelling errors in the manuals. Is this not good enough, to talk about sustainable forests and the ecosystem into the future?

Mr Gray: If the legislation itself required that sustainability occur and specifically required the manuals to detail through objectives how that was going to occur, that may be a practical way to do it. But that does not

occur right now. The legislation does not say what sustainability is and does not require that specific objectives for sustainability be defined and be developed in the manuals or in an individual management plan.

You have to make a choice. Are the rules going to be found in the manuals for how it's actually going to occur on the ground and how sustainability is going to be measured, is it going to occur in the regulations, or is it going to occur in the legislation? You can't have it loose everywhere. You can't have loose legislation, loose regulations and loose manuals. Somebody's got to say where it's going to happen, and it doesn't say it anywhere.

We went to those workshops, as you mentioned, and we were very, very clear about the things that needed to be included in those manuals. The second draft has come out; they're not in there. The principles of forest sustainability, the cabinet document, they told us was going to be incorporated into the manuals. It's not. It's in the front three pages of the binder. It's not part of the manuals, and it's not required to be pursued or to be followed.

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Mr Wood: Under the draft regulations, there is provision for three different areas where the minister may withdraw land from a licence. When a licence is transferred, 5% can be reduced, there is provision for natives—there are provisions for at least these two and I believe there's a third one the minister has to be able to withdraw land, because I understand that right now 50% of the crown land is tied up in licences to the large pulp and paper companies and third-party licences from there. There are provisions for withdrawal of productive land for other uses in the regulations.

Mr Gray: Yes. I'll clarify that comment. That section of the act provides for withdrawal of up to 5% when licences are changed, discharged, when they're transferred to other operators.

The concern I expressed earlier was that there is no provision in there, and it appears to make it more difficult than currently, for the minister to withdraw land for other uses during the tenure of a forest management plan, that five-year period when the licences are signed. It appears—and I've discussed this with ministry staff and had some agreement on this—that, for example, if you wanted to settle a land claim in a particular area that was under licence, the only way you'd be able to do that is when that timber plan is up for renewal in those five-year intervals. If you wanted to create a new protected area, such as we had in Sault Ste Marie recently, you'd only be able to do that within the timber management planning period, like that window when the licence expires and you start a new one.

I know this is something the forest industry has wanted for a long time, their security of tenure, but we're very disappointed not to see that provision for withdrawal delivered in this legislation. I can agree and sympathize with wanting to have long-term security over the land base in which you're operating, but there's been a failure in this province to address real land use. To assign forest areas for protection, for settlement of native land claims, for remote tourism areas—we've just treated the whole area as if everything can occur on it when there's obvi-

ously a lot of incompatible uses. If we finish up an overall land use planning process in this province that assigns a use to all those commitments we've made, I think it makes sense at that time to have permanent tenure for forest companies, but not until.

Mr Wood: Some of those terms and conditions are being negotiated as we speak, and I understand they're very close to an agreement being reached on some of the terms and conditions for converting from timber management plans to sustainable forestry agreements with the companies. They're taking place, and I'm sure we're going to hear more as the press conferences are called to explain the agreements that have been put in place. Hopefully, some of that concern can be addressed. We don't like to reveal in the middle of negotiations, but as they get closer to finalizing, I'm sure the agreements will be changed to reflect what is in the legislation and the manuals. The third draft is being drafted right now, I understand, of the manuals.

Mr Miclash: Tim, it's always a pleasure to hear your views, and I thank you for a very good presentation here this morning.

Earlier, you heard that there would be some legal implications, some conflict between the class EA, which you indicated you had involvement in, and this act. Could you expand a little on what you see as some of these problems that will be faced by the government?

Mr Gray: That's not an area I focused on in reviewing this. The Canadian Environmental Law Association has spent a lot more time on that. My concern is that we not be restricted by the outcome of the class EA, which did very much enshrine the old-style approach to forest management. But in terms of clause-by-clause conflicts, you're much better off to talk to Rick Lindgren or Michelle Swenarchuk about that.

Mr Miclash: I appreciate that. During our hearings, we've also heard a lot about one word in the title of the act, that of course being "sustainability." Do you or your association have a preferred definition in terms of sustainability?

Mr Gray: I think sustainability in the short term means putting back what you take out. Most people intuitively understand that. When you start operating on a forest or something as complex as that, what you're trying to do is sustain the ecosystem and all the components of it, so you're going to have to come up with some kind of measures that can be measured effectively, relatively inexpensively, that allow you over time to monitor whether the forest is being sustained.

In our brief, we submitted a list of what you could call surrogates for determining whether your forest is being sustained. In an overview, the basic elements are that you want the forest composition that exists there now; you want it to stay there. You want to continue to have conifer, you want to continue to have poplar. You want to have a variety of age classes, because a natural forest has a variety of age classes. You want to be able to harvest at the level you're harvesting now as long as you want to so that you will always have a wood supply. You want to maintain wildlife habitat in the form in which it's there and that reflects the natural forest that's there.

Those things can be measured. We have the ability, even with some of the inadequate technology we have now because of lack of resources, to know in a particular management unit what the variety of forest types are there, how old they are, what it takes to grow them back. We can set objectives for maintaining those. We don't have to have 25th-century technology to be able to do this stuff. It's very easy to set clear objectives about what you're trying to sustain in your management unit and move forward to develop plans that will sustain those.

That's been made very clear to all these processes over the last three or four years, that these things can be done. This is not rocket science. It's being done in other jurisdictions. I can see no reason why these things are not being included in the manuals and required by the legislation.

Mr Brown: Thank you for coming today. I'm going to come back and be very perplexed again. I think you were here when I was discussing ecosystems with a previous presenter. One of the things that strikes me about ecosystems is that they are always changing. It is a dynamic system; it isn't set right here in stone this minute. We have other factors that affect things, global warming, for example.

You also have to look at an ecosystem over a period of time. I know. I live on Manitoulin Island, and some years we have too many raccoons, some years we have too many skunks. This year is the year of the porcupine. If you measure that year after year after year with wildlife populations, you're going to see quite a fluctuation in what's going on out there, so you need to look at it over periods of time also. That's very hard for us humans to do, especially when you're talking about trees, which seem to have a life expectancy usually, depending on the species, but it's fair to say roughly the same as for people. So we're looking at it very long-term.

I just wondered if you'd give me some thoughts about the ecosystem, because I'm not very sure that the current one is necessarily the one that would have been there if we hadn't intruded as humans or the one that we as humans would want if we got to choose. In other words, there might have been a different species of tree there, might have been different things, and the reason there isn't is because we intruded in that forest.

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Mr Gray: To plan, I think you need to look at these things from a conservative point of view.

Mr Brown: There you go, guys.

Mr Gray: Not to offend anybody: a biologically conservative point of view. It's important to look at what systems were put here naturally, and for that we can look to the areas that we have set aside where we haven't intervened and where we have tried natural processes to proceed.

It's true that forests change and that forests change over time, but the way in which they're changing because of our intervention is something completely different from what they would have normally done and what they have done in areas where we have intervened. Just as a good example, if we look at what's happened in the

boreal forest over time, we've seen a system that was once dominated by conifers being converted, in areas where we've harvested, into areas that are dominated by poplar and birch.

That has economic implications in that we no longer have that softwood supply that we once did, and it has ecological implications because the wildlife that has adapted to the boreal forest does not particularly like to spend all of its time in regenerating poplar and birch. It needs conifer: It needs conifer to eat, it needs conifer to den in, it needs conifer to breed in. All the neotropical birds that come up from Central America and South America don't come here to feed and breed in poplar stands; they come here to the boreal forest.

Our contribution to global environmental health is dependent on us keeping the forests in a state which is reflective of what nature would have provided here. Changes like global climate change, continental change, glaciation, definitely occur, but they don't occur to that scale in the brief period of time in which we've caused them to occur. You don't see entire forest types changed in composition over a 45-year or 50-year period. Nature works much more slowly. Species have the time to move, time to adapt. The kind of changes we're causing on this planet and the kind of changes we're causing in our forests in Ontario are at such a rapid rate that—I think time to move, never mind adapt. It's scale and time that you have to be aware of when you're talking about what's happened to the forests.

The Acting Chair: Thank you very much, Mr Gray.
ONTARIO LUMBER
MANUFACTURERS' ASSOCIATION

The Acting Chair: I will now call upon Mr David Milton from the Ontario Lumber Manufacturer's Association. Mr Milton, I understand that you know how the system is working.

Mr David Milton: Yes, I do, sir.

The Acting Chair: Okay. So, if you want to, start now.

Mr Milton: Thank you very much. Members of the committee, my name is David Milton and I am pleased to be here today as president of the Ontario Lumber Manufacturers' Association. As many of you are aware, the Ontario Lumber Manufacturers' Association is the trade association which represents the interests of the majority of the province's sawmillers in the quality of production, public forest policy, and international trade.

The OLMA's principal activity is providing its members with a system of lumber quality control and grading which ensures market access within North America and around the world. Throughout its 28-year history, the OLMA has been involved in provincial public policy direction and the policy initiatives of the government. The OLMA supports the principles of the Crown Forest Sustainability Act as they have been outlined: sustainable forests, sustainable forest industries, sustainable communities and sustainable jobs.

We recognize the need to update and reform the current legislative framework governing forest management practice in Ontario and see this as an opportunity to

achieve common goals and remove current inequities. We have a principal interest in the legislative process and we are pleased to have the opportunity to contribute to the development of the new act.

We want to stress that we believe this can be done in cooperation with all the concerned stakeholders. The continuation of sustainable forestry practices in Ontario will help ensure that Ontario maintains a forest base available for the wide range of uses which are important to Ontarians.

As I said, there is broad support for the goals of the legislation, but critical issues are arising in how these goals are to be realized. Having reviewed the Crown Forest Sustainability Act and its accompanying regulations and manuals, the OLMA has identified some of these issues and concerns which need to be addressed in the new legislation. We would like to take this opportunity to touch briefly on these major concerns. We have identified these and other concerns and offered suggestions for improvements to the legislation in our written submission to the committee.

First, the new act needs to define Ontario's industrial forest land base if it is to achieve the goal of sustainable forests. A definition of what's available for harvest will also determine, therefore, what is not available for harvest and what should be defined as parks, heritage sites, wilderness areas, scientific interest areas etc.

Such a definition should be based on the area of productive forest land available to supply industrial fibre, should pay attention to the geographic availability of timber and should be determined within the framework of a timber production policy.

To complement this, we believe the new act must include an enabling clause which will allow the minister to compensate licence holders in specific cases of allocation reduction or in the loss of capital investment. Forestry companies depend on access to timber for their business. This business creates jobs: It is the primary source of employment for a number of northern Ontario communities. In specific cases where the resource is diminished, a negative effect is had on the jobs and the lives of the people who depend on them.

Second, the act must recognize the principle of most suitable end use. Under current forest management practices, sawlog-sized timber is being converted into furnish for pulp mills while sawmill co-products such as wood chips are not fully utilized. This results both in the loss of valuable sawlog timber and wastes the co-products of fully manufactured lumber. Not only is this an inefficient economic use of the forest resource, it has had negative effects on sawmill jobs.

To address this issue, the act must contain a provision which addresses the most suitable utilization of our forest resource. This will reflect recommendations made in the Forest Industry Action Group report, which suggested that the Ministry of Natural Resources should "establish the most efficient and effective economic and environmentally sound end use of fibre supplies on a regional basis." In this regard, the OLMA feels it is important for the Crown Forest Sustainability Act to be amended to contain a clause which requires that co-products from

sawmills, such as wood chips, be considered the first source of furnish for pulp mills.

Third, the Crown Forest Sustainability Act must base stumpage fees on sawlog timber rates to encourage fibre exchange. Current stumpage regulations provide a financial incentive to chip sawlog-sized timber. This reduces revenues to the crown, reduces jobs and hinders forest sustainability. By continuing the current practice of charging different stumpage rates for timber depending on its destination rather than its size or form, the crown is in effect providing a subsidy for bush chippers to convert valuable sawlogs into chips for pulp furnish.

In this regard, we are pleased to see that the new legislation contains provisions to license forest processing facilities, both stationary and mobile. We hope the ministry will utilize this provision. It helps to ensure a level playing field within the whole of the forest industry.

This, however, is not enough. We recommend that the act be amended to contain a provision to require that all softwood timber of straight and sound quality greater than eight inches in bottom diameter or five inches in top diameter is charged at the sawlog stumpage rate, regardless of use. This will encourage fibre exchange, encourage the most suitable use of the resource, ensure that the people of Ontario get the best rate of return through charges on the forest resource, and preserve jobs.

Fourth, we believe it's important for the new act to improve current practices regarding wood allocation, the reallocation of non-utilized fibre, and access to perishable timber. We're pleased to find under section 21 apparent powers being given to the minister to make available resources on a management unit following the completion of a competitive process. We hope this means the minister will take an active role in ensuring that non-utilized timber intended for harvest is allocated before the end of its useful life.

In order to ensure fair access to this resource, it's important for the act as proposed to be amended to ensure that prime licensees are able to recover legitimate costs incurred in management of the forest resource when providing access to third parties to harvest non-utilized timber, but should prevent them—that is, the prime licensees—from profiting from the sale of the timber, given that the resource is not the property of that prime licensee but of the crown.

Fifth, the OLMA finds it disturbing that the government has chosen to focus penalties for infractions on measures that are primarily punitive, rather than encouraging restoration. While we support some measure of fines being levied, we believe it will be more productive for parties found to have committed a violation to be required to return the damaged area to a productive state.

In addition, the act should refer to a "licensee" rather than a "person" in part VII. Licences are not necessarily held by individuals, and using the term "licensee" will cover all possible holders.

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Sixth, we are pleased with the decision to establish the forest renewal trust fund and the forest futures trust fund. Sustainable forestry is based on responsible harvesting

and reforestation practices, and the implementation of these two trusts will help ensure that this does occur.

In the case of the forest renewal trust, the OLMA maintains that the new act should ensure that third-party harvesters with a mill licence, and not the prime licensee, have management of the funds contributed to the trust by their activities. This will ensure that the funds contributed to the trust by third-party harvesters which operate mill facilities will be applied to forest renewal in a way that will meet the long-term production objectives relevant to that third-party mill licence holder's production requirements.

Above all, it is vitally important that the provisions of the Crown Forest Sustainability Act with regard to tenure, access and first right of refusal be applied fairly across the whole of the forest industry.

A lot of focus has been placed on the manuals in these hearings, and rightly so. The OLMA is pleased that we've had the opportunity to have had input into the development of the manuals. We understand that they continue to be a work in progress, and we respect that this is happening. We are also pleased to know that a second workshop will be scheduled prior to third reading of the bill. We are concerned that the preparation of the manuals is key and that there is too much haste now to finish without due regard to allow time to digest the contents across the whole of the industry.

At this point we offer only brief comment on the content of the manuals as they now stand.

We understand the focus of the manuals to be a hands-on guide to forestry in Ontario. However, at this point they appear to be overly complicated from an operational point of view. We would strongly recommend that the manuals be drafted to strive for and focus on end results rather than process.

The OLMA is of the opinion that the Crown Forest Sustainability Act should be the first priority of the ministry and the government. Without a completed Crown Forest Sustainability Act, neither the new business relationship being facilitated by Bob Carman nor the implementation of the residual value taxation system of stumpage should be considered. These and other major amendments to the way forest management is practised in Ontario cannot be adequately and fairly completed when we have yet to implement the new act.

Overall, we are supportive of the broad principles of the Crown Forest Sustainability Act. Our analysis leads us to believe that it is an improvement on the current Crown Timber Act. There continue, however, to remain a number of major outstanding issues that the act needs to address. We hope the committee will ensure that the act, as proposed, is amended to correct these deficiencies.

The OLMA believes the creation of the new legislation provides an opportunity to resolve existing inequities in current forest management practice and that it is in the best interests of all Ontarians to achieve a fair, workable and forward-looking act which will see the industry into the 21st century.

Thank you for this opportunity to provide our thoughts. I will be happy to answer any questions.

Mr Wood: Thank you very much. You've come forward with an excellent presentation and you've covered a lot of area and suggested amendments we should be looking at.

I want to get into two questions: the penalty, and then the mobile or permanent chippers. On the penalty section, I understand that the emphasis is on trying to restore any damage that is being done out there, that if there's \$20,000 worth of damage that's been done the land will be restored back, and if there's a direct refusal to stop doing this damage it could end up in court action for refusing a direct order and the penalty could go up to \$1 million. But the primary reason for the penalties is to restore the land as close as possible to its natural state before the damage occurred.

On the section you're talking about in terms of the stationary and mobile chippers, as you're aware, we toured northeastern Ontario and northwestern Ontario and got feedback from quite a few presenters. One of the questions I asked some presenters who came forward is, how big are the logs or wood they chip? One answer was that their portable chipper in the bush will chip up to 23-inch logs. In the area I live in and have worked in, there are four-, five-, six- and seven-inch logs going through sawmills trying to produce lumber, yet in another area, people are telling me it's quite reasonable that you would chip logs up to 23 inches. I just want to see what reaction you'd have to that.

Mr Milton: It comes down to the facilitation of the most suitable end use among all the primary products that are harvested in the forest and through the licensing of such machinery as mobile in-bush chippers. There's an opportunity, then, that the ministry can track how efficient the exchange of roundwood is for its most suitable end use. What we're suggesting is that there should be an enhanced opportunity for people to undertake commerce among themselves to exchange or barter or actually buy and sell to an invoice the thing which is most useful for the intended purpose.

The observation in sawmilling is that you derive the widest, highest-grade pieces from the largest, soundest logs, particularly the ones that are straight. It is possible to manufacture standard-size lumber out of four-inch butt-end diameter pieces, but all of it is number two or number three, two by three, one by three and perhaps one by four, and on the bottom line of a sawmill, that's the product which is the least attractive, usually. Access to large enough logs that will make good lumber speaks to the ongoing viability of the sawmills.

Mr Wood: I understand, having a bit of experience, like I said before, that the best end use, value added products—some will argue that it's a roundwood mill that is a filler for newsprint sheets, some will argue that it's a craft mill where you produce the fine-grade finished paper, others will argue that it's a sawmill, others will argue that it's the best value for the finished product being shipped. If I understand what you're saying, there has got to be a mechanism where the users out in the forest get together and exchange this to the best end use and get the best value added finished product they can for the sawlogs or the chips or roundwood or whatever.

Mr Milton: We're using our suggestion of the amendment in the act to cause this facilitation, this mechanism. We're not intending, other than by definition of what a sawlog is, that the act should pretend to direct sawlogs to sawmills. That's in the realm of commerce. But if there isn't a definition of what a sawlog is, it's a very difficult beginning point.

Mr Miclash: Thank you for your presentation. This morning we heard from the Ontario Forest Industries Association, and they suggested that the bill would certainly need a good number of revisions before they could ever support it, yet you seem to be quite positive towards what Bill 171 will do for your industry. Could you maybe expand on that a bit?

Mr Milton: I can expand on that to describe a number of opportunities the act provides to remove inequities that have crept into the old Crown Timber Act, particularly in those areas where the level playing field has disappeared among the various types of licence holders.

We're not without our concerns on the content of the act as it is now. In fact, we've hit six major points in this short presentation. Our document of amendments speaks to many of the clauses, things we didn't touch on here. It isn't perfection. We would rather be supportive of a new act than to attempt to continue with the Crown Timber Act and patching it. That's the most direct answer.

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Mr Brown: Thank you very much for coming. I want to come back to Mr Wood's question about most suitable end use. Maybe you could elaborate and help us a little bit about the stumpage fees. I'm particularly concerned about this new residual value tax—

Mr Wood: Fee.

Mr Brown: I think we have a difference of opinion— and how that will impact on changing the way lumber may flow. For example, a sawlog may have at that point a relatively high residual value and therefore you're paying high tax, and pulp may be at a relatively low level etc.

Mr Milton: There are two concepts there. One is the concept of marginal value added, which means that at any given time the thing which receives the greatest return in the marketplace is where you should devote your resources.

On the other hand, to take that example to its next degree, if craft pulp were to be selling in the marketplace at US\$1,000 per ton and saw and dimension lumber were to sell in a similar marketplace at \$250 per thousand board feet—yes, there's the grimace there too, inwardly here—we've advantaged the craft pulp producers over what their status has been for the last couple of years, but in that example we've depreciated the value of roundwood for lumber, where it now is in the range of, some were suggesting, up to \$500 per thousand board feet. That's the marginal value aspect.

The most suitable end use has to do with, principally, quality, size and form. This is a very narrow view from the sawmill industry, in that lumber, which is manufactured in the traditional way and is accepted under the building codes, predicates that you manufacture that from

a round log. Now, there are opportunities for laminated veneer lumber and other things as well. The North American, in fact the international, system is based on taking the natural fibre, sawing it, conditioning it and sizing it. The larger the piece, the higher the engineering properties per unit of bending tension, whatever, and therefore the more valuable as a saleable item. If the saw-mills in Ontario can be assured of a certain percentage of logs of a size that will produce the wider, higher-grade material, it just speaks to their viability in the long run.

I get away from using the term "best end use" because it generates a lot of arguments of what you mean by best end use. We are talking about most suitable end use and we're giving that from the perspective of the sawmill industry.

Mr Brown: And the issue of residual value tax?

Mr Milton: The issue of the residual value taxation system has to do with—frankly, it's a corporate tax issue in the sense that the proposed system predicates that there is a sharing of the residual value of the sold product once you have accepted an industry average for the costs, plus some return on your capital employed, plus some entrepreneurial risk, and you share thereafter. The thing that's unclear is how that will differ from the share under a corporate taxation system that says: Here are costs of manufacturing, delivery and sale, here are gross revenues, and what is left at the top end is subject to corporate taxation at whatever prevalent rate is published by the government of Canada or any other jurisdiction.

We argue, in fact, that the residual value tax is a conflict of corporate taxation. It may be methodology; it may be arithmetic. It's not an issue of sharing in the wealth of the province with the landlord. I think it's more methodology than anything else. The association's position is a very firm one, and has stated it many times, that we're against it, we're against it and we're against it, for the reasons I've just outlined.

Mr Hodgson: I just want to say that we've put out many platforms on how to avoid taxes to remain competitive; we feel the tax rate's too high. But in fairness to Mr Wood, he'd rather call that a fee or a royalty so you don't share that with the federal government.

I've three questions. One is on this stumpage, and the others are on the chips and, if I have time, about this tenure being fair. I believe I've got a few minutes, Mr Chair, with your leniency.

On the stumpage, I haven't had time to read all your recommendations, but if I can get this straight, what you're saying is that we're the owners of the land, and if you have an oak tree you should get more for the oak tree than you would for a poplar and the stumpage should be paid according to that. The problem I have is, how do you envision this working on the ground? If you have a chipper that goes in, do you go around afterwards and count the stumps, or do you have to have an inventory system up to date and off to market?

Mr Milton: Under the scaling and billing system which is in place with the Ministry of Natural Resources now, there is the opportunity to sample, on a periodic basis, what the composition of roundwood flowing to a

mill facility is by species form type. It's a matter of sampling and then applying that sample across the consumption of roundwood for a period of time. I won't offer what the frequency of sampling should be or the periodicity of that sample, but it can be done.

It's not a matter of measuring every piece or every load to determine what fractions of products are in there, because with the prevalence of mass scaling as an efficient method of approximating the volume of roundwood, it seems retrogressive. It seems a confusing and complicated system to take every load apart and try and lay out the pieces which would be suitable for which end use.

It's really a sampling issue, by independent people who would then report to the parties, the crown and the receiver.

Mr Hodgson: You talked about tenure being the same right across. You're referring to tenure on third-party agreements?

Mr Milton: Yes. I refer to the whole complex of forest management agreement holders, company units, crown management units, third-party operators on a prime licensee's area, and the multiplicity of licensees operating on the same ground. There are some layers of people who harvest for different species.

Mr Hodgson: We had some people who came in who had concerns about the one-year licence renewal.

The last point is the chips. If you've followed the committee hearings, we spent some time in Thunder Bay and Fort Frances and we had a quite a few presentations from people who are concerned about the licensing of mobile chippers. You've gone one step further than this act calls for. You're suggesting that chips produced from a sawmill operation are automatically given first right at the pulp mills. Now, there is a market component to this.

Mr Milton: There is?

Mr Hodgson: The people who run the mobile chippers, the independents or the companies, are concerned that when there's a lot of chips at the sawmill they'll shut down the chippers in the bush and lay them off because there's a high demand for lumber this month. How do you do that? There's a relationship there, where you have to take into account the cost of trucking over the large distances involved.

Mr Milton: Exactly.

Mr Hodgson: If we just put it into law that says they must take chips, wouldn't there be a tendency to inflate your costs of truckage?

Mr Milton: There may be that tendency. The point in the whole package of proposing licensing of in-bush chippers, definition of a sawlog, and that co-products of fully manufactured lumber be the first furnish for a pulp mill—the three of them all tie together—isn't contradictory to the interests of people who are operating a viable business with in-bush chippers. The theory is a simple one: Please don't chip the sawlogs. It makes the most economic use of all the roundwood. If those pieces which are not suitable for sawing because of their size, their form or their condition are chipped in the bush by a chipper, why would you drag the rat-tails and the small sticks to the sawmill, pound it through an inefficient chip manu-

facturing machine at a sawmill, and then ship it back down the road or barter it with somebody who has a few sawlogs?

Sawmillers are motivated by making lumber—not much fascination in making wood chips. The higher the proportion of lumber to roundwood coming in is the motive of sawmillers. Taking those all together, I know there will be many logging operations associated with sawmills that will in the future use in-bush chippers. Having segregated the sawlogs to go there, they will condition those pieces which are not suitable for sawing and manufacture them into wood chips in the bush.

The Acting Chair: Thank you very much, Mr Milton.

Mr Milton: You're most welcome, Mr Chairman.

The Acting Chair: Morning deliberations have ended. We'll resume this afternoon at 2 o'clock.

The committee recessed from 1200 to 1404.

ONTARIO PROFESSIONAL FORESTERS ASSOCIATION

The Acting Chair: Okay, we'll start. Our first presenter this afternoon is Mr John Ebbs from the Ontario Professional Foresters Association.

Mr John Ebbs: Thank you, Mr Chairman. My name is John Ebbs. I am a registered professional forester. You have heard from a number of registered professional foresters throughout the course of your hearings, including Ms Rauter, Mr Armson and Mr Milton from this morning. They are all registered professional foresters and members of the Ontario Professional Foresters Association, of which I am the executive director.

I am here because the association and registered professional foresters are specifically mentioned in the current Crown Timber Act, in the class EA decision and in the proposed amendments to the Crown Timber Act.

The association was created by concerned professional foresters for the purpose of maintaining and enforcing the standards of practice of its members. It was incorporated in 1957 and it now has over 900 members, 630 of whom are registered professional foresters active in forestry in Ontario.

Your clerk has given you a fact sheet concerning the association, as well as a copy of our most recent newsletter, which should be delivered to your offices about four times a year. Being the most current, it does cover some of the issues you've heard about in the last several weeks.

The association is totally funded by membership fees. We have an office in Richmond Hill and two full-time staff, of which I'm one. Through things such as the newsletters, committees, meetings and contacts throughout the forestry community in Ontario and Canada, we act as an educational forum and a communications conduit for members of the association and from those outside the association and profession.

Membership in the Ontario Professional Foresters Association is voluntary. It is not necessary to be registered with us to practise forestry in Ontario—only in British Columbia and Quebec are foresters licensed in this country—but from a survey we did of employers in 1989, two thirds of those practising forestry in Ontario do belong. While there are a few positions where employers

require membership, foresters join out of their commitment to the principles of being a part of a self-regulating profession. The majority of the employers support them in that.

Of the registered professional foresters active in Ontario, about 40% work for the Ministry of Natural Resources, 24% work for the forest industry, 15% are independent consultants and contractors and the balance work for the federal government, other provincial departments and agencies, colleges, universities and associations, and individuals such as myself.

The mainstay of a profession consists of three key elements: a similar educational background, a common area of practice, and a voluntary commitment to a code of ethics. So a registered professional forester has received the educational training and experience to make professional decisions concerning manipulation of the forest cover and, no matter what the endeavour, abides by a code of ethics which guides his or her relationships with the public, employers and the profession in their dealing with our forests.

These hearings are about the proposed amendments to the Crown Timber Act. I'm here because the Crown Timber Act and any amendments, regulations and manuals are going to affect the standard of practice of the members of my association. The principles of sustainability and ecosystem management and their implications that are implied by the intent of the legislation are not new to forest management. As long as there have been professional foresters in this country, which is only about 90 years, we have been increasing our knowledge through research and experience so that it can better provide for the needs of society and of our environment.

The foresters have moved and are continuing to move their traditional view of stands and management units to landscape and global levels. I'm sure you've heard these kinds of comments from other members of my association and from others outside the forestry profession. But we also recognize that there will always be more to learn and more that we can experience.

The proposed amendments are indeed future-thinking, but it's in the regulations and manuals that the vision of the authors will begin its translation into practice in the field. It is not possible to develop manuals, let alone legislation, which can do any more than express the current state of the art, the current state of knowledge of forestry.

If we want to be able to move ahead, we need manuals, guidelines which are not cookbooks. Unfortunately, bureaucratic necessity frequently ends up making rules out of guidelines and destroys our ability to adapt to changing conditions and new knowledge.

Sustainability itself, as I see it, is about people, but it's also about science and very definitely it's about human choices. As we learn more, we can make better-informed decisions, both the practitioners in the field and the public itself. We believe that the EA board decision, which is echoed to an extent in the proposed amendments to the Crown Timber Act, does address mechanisms to help ensure that we can all make the best possible decisions.

Also in sustainability, and indeed in legislation, we should be thinking in terms of the forest as an investment rather than an expense. The establishment of trust funds was a very significant change, something the forestry community had been asking for years. How frustrating it must have been for field foresters to write what could have been the best possible forest management plan for that unit and yet not have funds available to carry out the plan by way of regeneration. The change from thinking of our forests as an expense to dealing with them as an investment is true for government and the industry, and it applies to both money and people.

I have heard some reason, had discussions with people who have spoken to you around Ontario, and certainly I was here this morning to hear the views of those three individuals.

It is very evident that the future of our forests is far more dependent on such a broad range of legislation that we cannot possibly begin, in several pages of legislation, to accomplish all we need to.

Forest management is a highly complex series of interconnected systems. It's not possible to tinker with one part without carefully examining the effects on all the others and making appropriate changes in them as well.

From the view of the Ontario Professional Foresters Association, from this position I'm in, I see that the timber class environmental assessment decision and the proposed amendments are going to place increased responsibilities and accountability on registered professional foresters. We feel we're somewhat hanging out there as it's the only natural resource manager profession mentioned in the legislation. However, the responsibility is there and the membership is more than willing to rise to the challenge of accepting it.

These responsibilities aren't new to many. However, for some, we're going to have to be sure that those who are going to be authoring management plans and chairing planning teams have the necessary skills, not only in forest management but in such things as communications, negotiation skills and so on.

It's important to realize that for foresters in the field we're not just bringing processes into line with current practice, which is what frequently happens with legislation, but that we're adding new responsibilities and accountability. We have to assure ourselves that the practising foresters and the other natural resource managers have the support and mechanisms in place to assist them.

In response to an interrogatory during the class EA hearings, I learned from the Ministry of Natural Resources that of the 77 unit foresters—and from the ministry side, that's about the number we're talking about who are registered professional foresters who are going to be directly affected by this—of the 77 having responsibility, 65% had been on their units for less than five years. That's less than one management plan cycle. For those with experience in other units, there need not be as much concern, perhaps, as for those who are just starting their careers.

The unit forester, now the area forester—those posi-

tions are among the most junior positions in the government service. We should explore the additional support that may be necessary for these foresters, some of whom are responsible for immense areas of land.

I don't know much training will be necessary. We are beginning discussions with the ministry as the result of the EA decision to explore what will be necessary. The implications of this legislation coming so quickly on the heels of the EA decision are certainly going to cause all of us to have to re-examine how we're going to support those who are actually going to be accountable for the management.

I'd be pleased to answer any questions.

1410

Mr Brown: Thank you for appearing. I believe we heard from your president in Thunder Bay, and it's good to have you here.

As we're going through, what isn't often said and should be said is that the registered foresters, and indeed the companies they work for, have produced a good product for Ontario over the years, and as we've evolved in the knowledge of what happens in the forest, things are obviously changing: Practices 20 years ago aren't acceptable today and practices 40 years ago weren't acceptable 20 years ago. So we are in this constantly changing state of knowledge.

As I was listening to you, I was also having a look at your publication. I wonder if you could give us some insight particularly into the number of certification programs that are going on for sustainability out there right now. I notice, quickly looking at it, at least three are going on.

Mr Ebbs: I couldn't begin to count. Would you care to make a guess, Mr Armson. Do you mean internationally?

Mr Brown: I'm just looking at your publication. Let's hold it to three you mentioned.

The Acting Chair: Why don't you invite Mr Armson to come and sit beside you?

Mr Ebbs: Certainly. Would you do that, Mr Armson?

Mr Brown: As we have Mr Armson here, we can talk about the CSA one, which I know he just wrote about.

The Acting Chair: Please state your name, sir.

Mr Armson: My name is Kenneth Armson. I'm a registered professional forester. As was explained this morning, I believe, I was the chief forester and then provincial forester for the province of Ontario until 1989.

I can speak with some high degree of certainty about the Canadian Standards Association program. This is a process for obtaining national certification for sustainable forest management systems, and I emphasize the last word. The process involves representation on a technical committee from producers, from consumers, from the general public and environmental groups, from academics, practitioners; in other words, a very wide array of representation.

The purpose is to develop two documents, one a document of guidance or guidelines, and the second one a specification document. The first document would be

used by any organization, government or private, such as a company undertaking forest management, either on public or private lands, and would in fact inform them about the kinds of system and the elements that should be in that system that would be required if they were to apply for certification. The specification document then outlines not only the criteria but the standards, and these would then be subject to external, independent audit.

Mr Brown: The reason I asked is that that idea intrigues me. When we were in Thunder Bay, I think, we heard from at least one presenter who suggested that what we should be doing is pursuing excellence and not making—I think you referred to guidelines and rules—and that we should be encouraging innovation and encouraging better outcomes rather than worrying about every little piece along the way and how that's done. This intrigues me because it seems to me that this is a way to pursue excellence based on outcome. Is that a fair assessment?

Mr Armson: That is true, sir. You're perfectly correct. Perhaps I didn't make the point sufficiently. The provincial governments are represented on that committee, as is the federal government. In fact, it is proceeding with, if you like, the blessing of the Canadian Council of Forest Ministers, so that it is generally accepted procedure and the products are acknowledged as the type of product at the national level.

I would also add that in early summer next year, it's proposed to take the Canadian certification system to the international level, to the International Organization for Standardization.

Mr Carr: I have one quick question for Mr Armson. You were the chief forester up till 1989?

Mr Armson: Yes. I was chief forester from—let me get the dates right—1981 to 1983, and then I was provincial forester from 1986 to 1989.

Mr Carr: I'd like to ask a question I've been asking quite a few people as they come forward. There have been a lot of amendments, a lot of discussion on everything from definitions—we had an excellent tour last week through northern Ontario. The trouble I have is that there are so many concerns on both sides of the issue and, unfortunately, we have to make a decision on how we're going to vote on this. I've asked other people this question, and I don't mean to put you on the spot, but if you were me and the vote was coming up for third reading and the bill was as is, would you vote for or against it?

Mr Armson: No, I would not vote for it, and I give you that answer having gone through the bill very thoroughly. I should also tell you that I was involved in the negotiations and the drafting of the amendment bill to the Crown Timber Act that brought in the forest management agreements, so I have some knowledge of that process at that time.

1420

Mr Carr: Thank you very much; that's very helpful. I believe Chris had some questions on another line.

Mr Hodgson: Actually, to follow from Gary's, that was a fairly definite no, that you wouldn't pass it.

I'd like to go back to what Mr Brown was talking about, this idea of registered foresters. You mentioned that sustainability is people, science and choices, and that, as was brought up in Thunder Bay, maybe we don't need the "cookbook" approach. You mentioned it here as well, that guidelines become rules and we're locked into that prescription and only that prescription. If you're going to have some of this based on outcomes, how do we assure, as trustees for the public of this crown land, that the outcomes are accountable? If you take out the supervision or you take out the prescriptions, then how do we know it's accountable, when you're looking at accountability in terms of outcome, in 80 years? That's the forest rotation.

Mr Ebbs: It's a question as to whether the checking up, if you will, should be done before the decision is made or as the decision is being made. Obviously, as you said, the effects could be 80 years in advance. We have had and are increasing our experience in forestry in audits, in going in and looking at what the intention was by way of the plan, what the plan actually said, and, given the proper expertise, it is possible to predict what the possible outcome might be. Rather than having cookbooks that someone could tick off boxes to create a management plan, given the objectives for that particular area, professional resource managers can adapt, use current knowledge, apply it in different ways and different situations, and other experts, independent, can come in and look and see if that is an appropriate procedure.

Mr Hodgson: What do you see in this bill that stops that from happening?

Mr Ebbs: There is a natural tendency of legislation to create process rather than looking at the end result. Principally, the concern is that if we rush into this legislation, which is so highly dependent on the manuals, we may have difficulty in applying adaptive management techniques. It's not easy, as I'm sure you've discovered, to talk about the legislation without talking about the manuals, because the legislation is so highly dependent on the manuals. I would have to reserve judgement about whether the manuals will achieve the kinds of ends that we believe they should.

Mr Wood: It's unfortunate that our time for asking questions is restricted, but I just want to go back a little. The sustainable forestry initiative was launched about three years ago. The environmental assessment hearings went on for a number of years. There's been broad consultation and dialogue with thousands of people and industry out there.

The intention of bringing forward the legislation based on the public consultation over the last three years is that, coming through a recession, we had to find a way of protecting the billions of dollars involved in the industry, for one thing; and then there's the forest as a total. There's also protecting the communities, protecting the jobs that are there and creating jobs. Large investors have come forward and said: "We have plans. We'd like to use the hardwood species out there that are not being used." I think we've announced the creation of about 1,500 jobs and millions of dollars of investment, including, in my home town, about 200 jobs at Spruce Falls for a new sawmill chip and saw operation.

We've had broad consultation, we've had dialogue with a lot of people, and the feeling was that sustainable forestry should become the law of the land and that the province, as the landlord and managing that, should come in with legislation to manage that.

Some people have said there hasn't been enough dialogue, some people are saying that they haven't been involved enough, and yet when you ask the question, they say: "Oh yes, we've been involved in the environmental assessment hearings. We've been involved in the drafting of the manuals, the regulations, the legislation coming up." I'll leave that if you want to comment, because I know Mr Bisson wants to question.

Mr Gilles Bisson (Cochrane South): This cookbook issue is one I find of interest, what I'm hearing from you and from other people. This whole, as you term it, "cookbook" approach to forest management has been the practice. Every piece of legislation, not only in this province but any other province or any other jurisdiction, is defined by regulation. I'm current with the Mining Act. There were revisions under the Liberal government to the Mining Act that were completed under us, where there is a definite process about how things are to happen.

I can understand your intent as a professional forester, but I find it extremely interesting that you're telling me as a legislator that what we should do is write a piece of legislation that says, "In the end, this is what we want, and as legislators we really don't care how you get there and we're not going to define what happens in the event that you don't get there, and we'll leave it in the abstract." I don't know of any piece of legislation in Canada, the United States, Europe, on either side of the Iron Curtain that used to exist, that operates in that way. I just find that a very interesting comment.

Mr Ebbs: May I respond to that?

Mr Bisson: What I want you to respond to is this.

Mr Brown: Mr Chairman, let him respond.

Mr Bisson: Excuse me, Mr Brown, we have the floor. The question I have for you is that I understand this legislation to be enabling legislation. The reason so much is left in the manuals is to allow professional foresters and others, as our knowledge base increases, to better adapt how we manage timber and the forest through those manuals. So I'm really curious. How would you do it?

Mr Ebbs: On the issue of manuals, the way the legislation is constructed at the present time, the manuals would become regulations. In other professions it is not common to have exact procedures. In some professions it may be possible to have exact procedures. I don't wish to go to a doctor who has to abide by regulations in order to cure me. In certain fields it may be more possible. In more mechanical-related fields such as surveying and certain aspects of engineering it may be possible. But where we are learning, where we are adapting so quickly at the present time, the difficulty is that any regulation that is written today contains knowledge that we know today. It does not include knowledge that may come tomorrow or in the future.

Mr Bisson: If you're a forester and you're putting together a forest management plan to be consistent with

this legislation, it would take into account what happens inside the forest. That's how this legislation is written. It's not written in a way that: "You shall (a), (b), (c), (d) or (e). If you find a snail under the root this is what you're supposed to do." It doesn't define in those terms. It says, "Here are the requirements you need to do in order to do the job you have to as a forester." You can't leave it in the abstract. You have to in some way define what it is that you want to get to and what the intent of the legislation is.

Mr Ebbs: The situation up until now has been that there have been silvicultural guidelines, for example, and the intent of Mrs Coppen and Mr Martel in their EA decision was that foresters would be presented with, in essence, a series of possibilities. The EA decisions says they should look at those silviculture guidelines, for example.

However, if those do not fit the situation, then from our point of view as a self-regulating profession the forester has a responsibility not to use them.

Mr Bisson: And that's how the legislation is drafted.

Mr Ebbs: Our concern, sir, is that it will end up being in the regulations saying, "You must do this."

The Acting Chair: Thank you very much, Mr Ebbs, Mr Armson. Is Mr Wishart here? Not yet.

1430

PAUL AIRD

The Acting Chair: We'll call on Professor Aird. Are you familiar with the format? You make your presentation, and if it takes 15 minutes then the members will have 15 minutes to ask you questions. The total amount is a half-hour.

Mr Paul Aird: Thank you. My name is Paul Aird. I would like to preface my remarks by thanking you for the opportunity to participate in this discussion. I believe it is extremely important, and I will develop that point as I proceed. Though I am a professor in the faculty of forestry and a member of the Ontario Professional Foresters Association, this is a personal brief. You've all received my personal brief, but I'm only going to dwell on one topic within it and develop it more fully, and that is the topic that has been put in bold print.

The title of my presentation is **Two Factors Shape Ontario: Nature and Human Nature**. This is what generates the distinctiveness of Ontario. It is the natural system and how we manage it. Our distinctiveness is built upon the kinds of soils we have, the kinds of plants and animals we have, the water we have, the air we have and how we manage them, and the position of these materials on the globe, how much sunlight we get. So our distinctiveness is not due to our people; people are the same all over the world. Our distinctiveness, what makes Ontario different from other places, is because of the natural resources we have, and how we manage these resources is critical to our survival and our distinctiveness.

We use some of these features in our everyday activities, our cultural activities. We have plants and animals on our flags, our armorial emblem, our coins, in our literature—we refer to them in literature and poetry and art. In the chambers upstairs, when you people deliberate,

there's an owl facing one half of you and an eagle facing the other half. This is all part of the human nature and the nature integration that I am talking about.

As a result of our interest in these natural forms of life, the Legislative Assembly created the Arboreal Emblem Act, I think about 1984. As a result of that, there are two eastern white pine trees planted on the lawn in front of this building, planted by Her Majesty the Queen and His Royal Highness, the Duke of Edinburgh, in 1984. I was there to watch them do it. It surprised me that they didn't actually plant the tree. Someone else had already planted the tree, staked it, and there was a little pile of earth beside it and a shovel was put in the little pile of earth and a little shovelful was dropped on top. They effectively planted it.

But as a result, I've had some interest in the trees surrounding this building, and I became rather disturbed when the construction started on this side of the building and the constructors were really doing terrible damage to the existing trees. I went in and spoke to the Honourable David Warner, Speaker of the House, and he was concerned as well and he put protection around each of the trees. Then, when the constructors moved to the other end of the building, they performed just as they had before—another call to David Warner. When you go around there, you will see around almost every tree fences to protect the trees. I just say that you people are doing it better than the city of Toronto and even the University of Toronto, taking better care of your trees.

But the point I want to make is that though we are a forested province, we are not a forest people. We don't seem to have acquired the concern to sustain our natural heritage, and that's what this act is about. This act is trying to force people to sustain it properly because of the feeling that they are not sustaining it properly.

So what should be the number one priority of the Legislative Assembly of Ontario? Have you ever questioned that? To me, it is to sustain the natural diversity of our natural heritage, our plants and animals and micro-organisms and soils, for all time, to benefit all people. This is really important. It's because of this that I really believe we have to put much more attention on knowing and understanding what is happening. This is largely absent from this act. Public education about forestry is a major issue and it doesn't come out at you from this act. It's sorely neglected.

I would like to say that Elie Martel made a major contribution to public education about forestry in 1979. This is written up in the Oxford Book of Canadian Political Anecdotes by Jack McLeod, a professor at the University of Toronto, and Cynthia Smith, who is director of legislative research here. Among the anecdotes is this one about William Davis.

"The Conservative government of Ontario made an election promise to plant two trees for each one harvested and to regenerate every acre logged," and this was a promise that made a lot of people vote for them. But then when they brought in new legislation, as referred to earlier, when they amended the Crown Timber Act, this was not mentioned. Elie asked, "Why not?" and there was no answer, and so he moved an amendment that it

"shall provide for the yield to be sustained on the basis that at least two trees are planted for every tree cut under the agreement and to regenerating every acre harvested."

This plunged the government into a quandary, because they had to vote for Premier Davis's fine words. Elie said he had no choice but to move the amendment to enshrine Premier Davis's noble words in a piece of legislation. They had to vote for it, yet they couldn't, because if they did, they'd have to plant trees on every new road and trees on every campsite, even on tops of the buildings and trees on areas that had been properly regenerated.

So a compromise was reached. Elie withdrew his amendment and the government agreed to provide audited statements to the Legislature of Ontario on the status of certain properties under forest management agreements. So this was the introduction in the 1980s of audited statements on the effectiveness of forest management in Ontario, and it was laughed into law in 1979.

Audited statements, then, began by tending to be self-serving. You would have some friends and they would review your operation and you would help review theirs, and there was minimal information provided and it was not an independent audit. But that has changed. Audits now tend to be independent, they're much better, and we have to strive to have them become complete.

Then a little later, when the Liberal-NDP liaison began, the NDP established a condition that there be a provincial audit of forest regeneration. Because of this condition, it was acted upon, and you've heard about this report. It was an interesting report, but I thought it was incomplete because the chairman would not examine the biological diversity implications of the regeneration; he just reported on the regeneration. But that was a significant event, when we had an audit of regeneration.

Proceeding from that, just last December, we have an Environmental Bill of Rights, and in it an Environmental Commissioner who will be providing educational material to the public. That act is providing educational material, and I suggest that this one should, too.

There is something mentioned in section 19, on page 7, and it's very brief. It says, "The minister shall from time to time prepare a report on the state of the crown forests." I suggest that in this case it should be much more precise than "from time to time." It should be regular. It could be an annual report, it could be a biennial report, but it should be regular.

Another point is that it should not be just a report on "the state of the crown forests," but it should also add the word "sustainability" because this is what's in the name of the act and the intent of the act. This would give it a future dimension, if it's on the state and the sustainability of the forest.

Then I'd go further, to say that this report should cover all the forests of Ontario, not just the crown forests. You might ask, how can you have a crown forest act and have it relate to the non-crown forests? I suggest that this could be simply done by having it be a report on the state and sustainability of the crown forests of Ontario and the associated privately owned forests, because they tend to be mixed together in a number of areas.

1440

Finally, I feel this report is so important because it leads to responsible management and accountable management, if it is independently assessed. It is so vital to the future of Ontario that we know and understand exactly what's happening to our forests that we should dedicate a requirement that this be independently assessed.

I'm concluding by suggesting that a bold education trust should be inserted into the act. This is a point that is not in my brief; I'm taking it a stage beyond my brief. If we turn to section 1 of the bill, it tells the purposes, and then I'm adding a phrase on to the purposes.

I'll first read what is said. "The purposes of this act are to provide for the sustainability of crown forests and, in accordance with that objective, to manage crown forests to meet social, economic and environmental needs of present and future generations." I add a comma and say "...and to educate the public on the value, state and sustainability of Ontario's forests." I see that the need for this act is not only to manage the forests but also to educate the public on the value, state and sustainability of Ontario's forests.

If there is concern that inserting the word "educate" will infringe on the Education Act, you can do what they did in the Environmental Bill of Rights Act and say "...and assist in providing educational material to the public." But to me, there is a way to do it and it is something that should be done.

I want to applaud the present government for sustaining the budget for the libraries of Ontario. It is education that is so critical to the advancement of our welfare in this province, and it's education about our forests that is going to be critical to managing them properly, so I really see that the central part of the purpose should include education.

In closing, I want to recognize the fine work done so far in the preparation of this bill. I'm impressed with what the staff has prepared so far. I want to thank the government for initiating this bill, for clearly, from the people I have heard, there is a general agreement that a new act is needed. The government deserves applause for beginning the process. And because this is such a vital task, I look forward to all parties joining together in cooperating to do this as well as we can.

I brought along this little wooden plane, part of our natural heritage, part of my collection. It's just got a little piece of metal in here; otherwise, it's all wood. There's a little spot here that normally is a wooden dowel, but in this case it's a metal thing. The reason is that instead of injuring the tool, you can tap with your hammer here and here and get this just perfect so that you can shape what it is you're shaping just perfectly. I'm using this as a model to say that the Crown Forests Sustainability Act should not be rushed through; it should be shaped as nearly perfect as we can make it. The members of the Legislative Assembly must take the time to create the best possible forest conservation legislation for the fulfilment of all.

Mr Carr: Of the various groups that have come in,

the Ontario Forest Industries Association said we should vote against it; the Wildlife League this morning said we should vote against it. When we were in Fort Frances, the native delegation said we should vote against it; Spruce Falls Inc said we should vote against it. The overwhelming consensus is that there are too many problems. The intention is good; everybody applauds the government. All three parties supported it in the beginning because of the intent, but it hasn't worked out, for a number of reasons.

You've added some of your definitions, but what are your thoughts? The way it is now, with all this opposition from the groups I mentioned, what is your feeling? It makes it very difficult for me to support the bill. If you were me, would you suggest—I hate to use the term—that I hold my nose and vote for it, or should I vote against it when it comes up for third reading?

Mr Aird: My feeling is that regardless of your party affiliation—and I do not know what it is; forgive me—you should support changing this to the point where it is acceptable. I think the thrust is in the right direction. Everyone agrees that we should go ahead and create a new act. I have said that I am impressed by what they have done, but there is room for improvement, and this is what I feel is the function of your committee too. I would say no, don't vote against it yet.

Mr Hodgson: Thank you for coming in. I enjoyed your presentation. You brought up a lot of history that I'd forgotten about when you spoke of the wise words of former Premier Bill Davis and his promise to plant two trees for every one. We've elevated that into almost natural reproduction in the last few years, so it was undefined.

There is a bit of politics involved in this process. We were going to four-lane the whole of the north in the last election, and now we're going to sustain the jobs in their community and the forest as a whole, and it has to be rushed through in third reading right now.

With the purpose of trying to make this better and to constructively look at concerns, I'd just like you to explain this in more detail to me. It's in regard to part V of the bill—this is on page 2 of your brief, but you didn't mention it—about the trust funds that were created under Bill 160 and there's going to be a trustee appointed. As to how the money's collected, you say, "To be absolutely fair, all forest users should be tithed to pay for forest renewal, including hikers, hunters, and newspaper publishers, and not just those that harvest the forest resource." Is that a tithe on their before-tax income or after-tax income? What's the concept here?

Mr Aird: The concept is to point out that it should be more than just the people who cut the trees down who should pay for the management of the forest, because there are other parts to managing forests, their protection and various other aspects. We are all benefiting; we should all pay. Governments have tended to say, "Oh, no, it's just those who harvest the trees who should pay for the regeneration," and I say no. Part of the profit of the Globe and Mail should go towards regenerating the forest too, because it's using the newsprint and that's why the trees are being cut. Some extra money should be dedi-

cated to forest renewal and not just coming from those who cut the trees.

Mr Wood: Thank you for the history in politics. There's more I could add to it. Just prior to 1990, a position had been taken by the former government, but it didn't follow through with it. It was more important to try to get a new mandate than to do the legislation we're doing now.

I just want to go back over some of the presentations. We heard from the IWA, Fred Miron, saying that at one point in time, you'd cut a tree and God looked after the rest, that He'd plant a tree for every one. He said, "But now He's falling a little bit behind and He needs a helping hand."

We've heard expressions where planting 150 million or 160 million trees doesn't necessarily have to be done in every area. In jack pine areas you can cut a few trees and just kick the soil around and you'll have hundreds of trees that'll come up from the cones, whereas in other areas of the province it won't happen.

I just want to get a bit of a comment from you on sustainability, knowing the different ways you can sustain forestry and how it should be handled in the act, in the manuals. Just a brief comment; I know Mr Bisson wants to ask a question as well.

1450

Mr Aird: Nature abhors a vacuum, so some day the city of Toronto may be another lost civilization and trees will be growing here again despite the concrete. This is what happens. Something comes up, but it may not be what you want. And often jack pine does not come up even if you do kick the ground. You have to kick the ground properly and you have to provide the seed properly and you have to get the proper conditions; there are a number of things.

With respect to sustainability, I wrote my brief essentially without consulting anyone, so it's rather interesting to see that virtually everyone has said that sustainability should be defined and it should be in this act. This is the Crown Forest Sustainability Act. What do you mean?

I just criticize "sustainability," but I don't like the "forest ecosystem" definition; "forest" hasn't been defined. The definitions part of legislation is extremely important. It's just as important as every other section, so I feel that should be done.

With respect to definitions, I brought for each of you—I'll ask if this could be passed around—a list of 140 definitions of forest conservation terms that I have prepared. I didn't do "sustainability," but I did "sustain" and "sustained use" and "sustained management." I tried to select the best definition possible from the literature. If I didn't like what was there, I took the liberty of modifying it a little bit, and if I really didn't like it, I created it myself.

But this is a target. This is not necessarily the definitive thing; this is a target. Although I am giving you this English version, I also have another version in French and another version in Spanish, and this is being put forward so we can start talking a common language around the world about forestry. This is part of the

trouble you are having. We foresters are having it as well, but it's people who aren't foresters who are having most of the problem, so that's why this has been prepared. I ask that this be passed around.

The Acting Chair: The clerk will do that for you, Professor. Mr Bisson, if you are very quick.

Mr Bisson: We're not going to be able to get into the debate, but I thought your comments with regard to education were bang-on. Some people may not appreciate where you're coming from, but I see that one of the big problems we have in the industry—and not only in this industry but in mining as well—is that often people are not aware of what's actually happening in the forest. I think, to a certain extent, the forestry companies are to blame in the sense that they've done some really good things that nobody knows about.

The Acting Chair: I asked you to be brief. Please be brief.

Mr Bisson: Well, I'm looking at the time, Mr Chair.

The Acting Chair: I'm trying to be fair with everyone.

Mr Bisson: I'm trying to be fair to myself as well, Mr Chair.

The point I'm getting at is that I think you're right, but your assertion that we have to wait for perfection—in an ideal world it may be possible, but the world is less than perfect or ideal, and what you do is base legislation on the best technology of the time, with the best ideas about how to do it, and then you move forward. The definition of many of the things you talked about are yet to be dealt with, because our understanding and our knowledge base is for ever growing. No time for questions, so we'll move on.

Mr Aird: May I respond?

The Acting Chair: Yes. I am trying to divide the time equally; I'll give you one minute, Professor.

Mr Aird: I said not to wait until we've achieved perfection but to strive towards perfection, and I think there is a chance here to make this a better act.

The other point I want to make is that the government needs to do more to educate the public about forestry. I've been in the Ontario Forest Industries Association office and they've got lots of material; so does the Ministry of Natural Resources have lots of material. It just has to be more widely distributed and pushed.

Mr Brown: Thank you for making a very good presentation. You've raised the point, and Mr Bisson alluded to it, of education. You are actually only the second presenter, I think, over the past three weeks who has made that point. When we were in Thunder Bay, Lakehead University talked about education. They also talked about research and the need for increased funding for research.

As we come to this debate in this year of 1994, we discover that the forest companies and the people in the forests are paying double the area fees they were just four years ago, they're paying quite large increases in stumpage fees, they're now faced with something called the residual value tax. The point is, there's a lot more money

coming out of the forests of Ontario for, I don't know, whatever. Some of it just goes to the general revenue fund. It seemed to us over here that some of it should be going to research and education. You've talked about the education component. Maybe you could discuss the research side of it a bit, from your point of view.

Mr Aird: I am often asked, what do you do in the summertime—

Mr Brown: They ask us that too.

Mr Aird: —and how much time do you spend doing research and how much teaching? I say it's like asking the lamb, "How much time do you spend growing wool and how much time do you spend growing mutton?" The two, to me, are just so intimately connected that you can't separate them. This thing of definitions I did was a part-time three-year task. It's research and it's education, and they're just both in there together.

So yes, they're fundamental parts and they should be recognized in the act. I think research is going to emerge because our advancement is dependent upon it, and to create these manuals requires research and evaluating it. But I want to be sure that there's a recognized, clear focus on education.

Mr Brown: We as legislators are, at best, generalists. We know a little bit about a lot of things and not very much about anything in particular. Sometimes it's said that a little knowledge is dangerous, and I always worry, sitting here on a committee and having taken a three-week crash course in what sustainable forestry is, that that little bit of knowledge could get the public into a lot of trouble.

I just want to say to you that I agree with what you're saying, that this bill needs very careful consideration. We'll have to go through it as best we can to try to improve each and every section and each and every definition and each and every clause. We only, as somebody said, get at kick at this every 30 or 40 years as legislators, and we'd better get it right this time. I appreciate your comments.

Mr Aird: Thank you.

The Acting Chair: Thank you very much, Professor.

I will now call on the next presenter, Mr Wishart, if he's here. Mr Rick Wishart, Ducks Unlimited? He's not here. Therefore we will adjourn and meet tomorrow morning at 10 o'clock.

The committee adjourned at 1459.

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Carr, Gary (Oakville South/-Sud PC) for Mr Arnott
Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson
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Clerk / Greffier: Carrozza, Franco

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Crown Forest
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GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Wednesday 31 August 1994

Mercredi 31 août 1994

The committee met at 1001 in committee room 2.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

The Vice-Chair (Mr Hans Daigeler): Good morning, ladies and gentlemen. We're continuing the hearings on Bill 171. I should say that, by popular demand, we are putting the Vice-Chair back into the chair, as long as my voice holds out reasonably well. If not, perhaps Mr Morin will be so kind as to chair again, but I'll give it a try. Of course, as Chairman I like to say as little as possible anyway, but please excuse my voice.

The first presenter this morning is Michelle Swenarchuk from the Canadian Environmental Law Association. You have half an hour, and if you'd leave some time for questions and answers, we'd appreciate that. Please go right ahead.

Ms Michelle Swenarchuk: I also have a voice problem this morning. Good morning. I'm a lawyer and executive director of Canadian Environmental Law Association. I think it will take me about 15 minutes to go through the brief.

CELA, as you may not know, is an environmental law clinic funded by the Ontario legal aid plan. Our mandate includes representation of environmental groups and low-income individuals affected by environmental problems, and engaging in law reform and public education.

We provided counsel, myself and Mr Lindgren, for Forests for Tomorrow, which was the environmental coalition which went all the way through the timber environmental assessment, and we've been involved in numerous forest-related cases and law reform efforts in addition.

We joined with other groups in this brief which was filed with you, The Crown Forest Sustainability Act: Making it Reflect a Commitment to Sustainability. We believe it outlines basic changes needed to give Bill 171 a semblance of usefulness to the forest environment. We're not supporters of this bill.

Even with these changes, the act would fall far short of what is needed in Ontario and what modern forest management entails. However, the adoption of our proposed changes, drafted from stated government policy, as

reflected in that brief, would demonstrate an intention on the part of the government to make this bill more than what we consider it to be, which is a public relations exercise.

I want to talk now about what we think forest sustainability would actually entail.

Any modern concept of sustainability of forests incorporates, as did the Ontario Forest Policy Panel report, the fundamental premise that all elements of the forest must be sustained.

There are many ways of saying this. We speak of timber and non-timber values; or of conservation of biodiversity; or of stewardship of the forest for all the values within it, including wildlife, aesthetics, tourism, spiritual values, non-consumptive and consumptive recreation, conservation of air, water and soil, and logging.

In brief, any modern concept of sustainability of forests recognizes two broad categories of forest values to humans: timber and non-timber values, or economic and ecological values. This bill does not provide for sustainability of either category of forest value. It is skewed towards the status quo: short-term profits for industry through the depletion of commercial forest species.

Let's look now at what it does with regard to sustainability of the timber resource.

With respect to timber extraction, sustainability legislation requires a frank recognition of the fundamental issue: What level of logging can be sustained in perpetuity? What level does not exceed the level of wood the forest can produce? The immediate corollary question then becomes, what methods of logging and regeneration should we use to sustain both the timber and non-timber values of our forests?

This act clearly does not grapple with this question. It fails to include a definition of sustainability, and eliminates the definition of "sustained yield" which currently exists in subsection 6(2) of the Crown Timber Act. Although flawed and inadequate, that definition did relate the permissible level of the annual cut on the FMAs to the biological capacity of the forest.

Studies for Forests for Tomorrow, based on MNR's wood projections, as well as other MNR reports, point to impending wood supply problems in various parts of the province, and we've listed a number of those reports. However, section 26 of Bill 171, rather than requiring a sustainable level of cut, establishes that each forest management plan will specify "the amount...available for harvesting." This amounts to no requirement for sustainability whatever.

The draft regulations under the act—the latest we received, which are dated August 1, 1994—and the draft Forest Operations and Silviculture Manual similarly contain no sustainability commitment. Section 1.1.3 of the manual, entitled “Achieving Sustainability of Crown Forests in Ontario” is an excellent example of MNR baffle-gab. Propagandistic in style, lacking in substance, and failing to even mention the issue of harvest levels, it provides no standards or benchmarks for the achievement of sustainability.

Instead, it indicates that Ontario forest management will be amended to comply with federal government initiatives to certify products for export. These efforts are irrelevant, totally irrelevant, to the determination of sustainability in Ontario. After years of public consultation in Ontario on forest policy, it is unacceptable that the government is seeking another excuse for failing to face the real issue.

We therefore strongly urge the Ontario government to amend the act to require, as specified in our collective brief, that the level of harvest be set to provide a non-declining flow of volume of each harvested forest resource in perpetuity. This standard should apply to each species harvested, with a permissible fluctuation in the amount of the flow of plus or minus 10%.

Successive governments of Ontario have a long history of promoting an unsustainable level of logging in this province. By continuing this pattern, the act fails to provide for the sustainability of the timber resource.

Let's look now at what it says with regard to sustainability of non-timber resources.

In the past, and up to the 1980s, forest managers spoke of managing wildlife in the forest and developed policies focused on production of fish and game species, with little regard for other species. In Ontario, we continue to base wildlife management on production of moose and deer habitat, with some attention to habitat for game fish. It's been estimated that Ontario's present approach ignores approximately 99% of the species of flora and fauna which exist in the province.

However, a modern approach to forest management, including that proposed by the Ontario Forest Policy Panel, concentrates on conservation of biodiversity, using landscape management and concern for conservation of forest ecosystems overall. This act contains no such modern thinking, and does not even reflect current practice of requiring some attention to habitat for some species. It merely says that forest managers, in preparing plans, shall “have regard to the plant life, animal life” etc. Similarly, a minister may approve a plan and find that it provides for sustainability—which is undefined—of the forest by merely “having regard to” some issues.

It should be noted that similar language, “have regard for,” is currently being removed by the Ontario government from the Planning Act because it is too vague and doesn't provide sufficient protection for environmental values. It therefore has no place in Bill 171.

Forest management requires that we plan the use of all the forest resources in an integrated fashion and not merely plan for timber extraction with some minor

“regard” for other values. The scientific community and forward-looking forestry community—including some field people within MNR—are far beyond that in 1994. Non-timber values must be seen as worthy of protection and production in their own right and not merely as constraints to timber production.

The US National Forest Management Act, passed in 1974, provides a precedent that could have been adapted to Ontario needs, together with the lessons learned in its implementation over 20 years.

Numerous prominent Canadian foresters, including Gordon Baskerville of the University of New Brunswick, have criticized MNR's backward approach and lack of integrated forest management. To have wording like this in legislation proposed in 1994 is shocking. The old Crown Timber Act had no pretensions; it only dealt with timber. The government should acknowledge that despite the years of consultation and environmental assessment, it is not about to move to forest management and that Bill 171 is about timber management in the old style.

Nor can we rely on the manuals to correct this deficiency. The Forest Operations and Silviculture Manual includes a section on biodiversity and standards for forest management activities. The biodiversity section includes a reasonable definition of it, but no commitment to manage for conservation of biodiversity and no measurable benchmarks or indicators. Incredibly, the section entitled “Standards for Forest Management Activities” includes no standards. It merely recites that familiar list of MNR manuals and provides no standard that the public can actually enforce or rely upon.

That old-style timber management plans will be deemed to be forest management plans under this act, section 69, will not make them so. However, it may well stop any progress being made by forward-looking MNR employees, working without the support of their senior management, to move in that direction.

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I want to talk now about silvicultural funding and practices.

We're among the groups in Ontario who support requiring the forest industry to assume more of the costs of silviculture. However, it's impossible to evaluate whether the move to create the forest renewal trust and forestry futures trust actually achieves that goal. The government has given the public no information about the structure and management of the trust funds.

If revenues that would otherwise accrue to the crown, for example from stumpage and area charges, are put into trust funds for silviculture, the public has still lost the use of these revenues from forest operations for the creation of public services and payment of the provincial debt, and the forest industry has not paid more.

Further, CELA and other groups have urged the government to impose and enforce silvicultural standards on the industry even if regeneration costs are transferred to them. This would include more use of logging methods other than large-area clear-cutting. This act and the regulations under it impose no regeneration standards. At a minimum, the act should provide for accountability of

the trusts—these are very important trusts—to the Legislature and not just to the Minister of Natural Resources.

Enforcement provisions:

We are pleased to see that the MNR has been provided with the authority under the bill to issue stop orders or remedial orders. However, we remain concerned about the MNR's willingness to actually use this authority, particularly in light of its questionable enforcement track record in forestry-related contraventions. We therefore recommend that subsection 53(3) be amended to permit the minister "or any resident of Ontario" to apply to court for remedial relief. Sections 52 and 54 should be similarly amended to provide the minister or Ontario residents with the ability to go to court to seek injunctive or mandatory relief. In fact, we're surprised to see that these sections, as drafted, fail to provide the ability to go to court to seek appropriate relief where a person fails to comply with MNR orders.

We note that section 78 of Bill 171 repeals the Crown Timber Act. Significantly, the Crown Timber Act is scheduled as a statute to which the Environmental Bill of Rights applies, and we're recommending that the government move to ensure that this act, if passed, also be covered by the EBR.

We see section 56 of this bill, which permits licence cancellation, as rather a paper tiger, since the MNR, to our knowledge, has never cancelled or revoked a forest management agreement. Nevertheless, if the MNR actually took that extraordinary step, we believe there should be an opportunity for public involvement in that process.

We have reviewed the provisions of section 61 regarding offences and note that while the maximum fines look impressive, in reality fines rarely approach the maximum even for serious contraventions. We're recommending that minimum fines also be implemented in the act, in the order of about \$25,000.

Let's look now at public participation in forest management, about which much has been said and written in this province in the last 10 years.

A hallmark of modern management of public resources is the creation of opportunities for public participation and sharing of information with the public. Nothing defeats this approach as readily as unenforceable laws and retention of bureaucratic discretion. This act exemplifies the latter approach in such provisions as:

—The absence of definitions of sustainability and the absence of enforceable standards.

—The retention of the minister's discretion to approve plans without legislated standards.

—The inclusion of an appeal structure regarding forest management plan approval in section 11 of the act which will not in fact be put in place, according to commentary which accompanies the draft regulations.

—A section enabling regulations pertaining to independent audits of industry compliance, something that all of us really want. However, no such regulations will be drafted, again according to commentary accompanying the draft regulations.

—Again, the "Remedies and Enforcement" sections which permit enforcement actions for environmentally damaging practices only if the minister considers that damage has been done.

As I say, we were counsel to Forests for Tomorrow throughout the timber environmental assessment. The MNR maintained throughout those protracted hearings that it was seeking an approval for timber management planning. Despite our objections and those of others, and despite having previously written four draft environmental assessment documents for forest management, the MNR abandoned forest management and proceeded to obtain an approval for an undertaking called timber management.

If the MNR now wants to call its approach forest management, we question whether the approval the ministry obtained is sufficient to cover such a change, particularly given the narrow and conservative basis of the decision by the Environmental Assessment Board. This confusion is ironic, given that the ministry in fact merely intends to continue its timber management approach and merely change its name. However, the legal confusion is real.

Given all of these deficiencies and lack of substance in Bill 171—I guess you'll have concluded that we're not big fans—we do not support its passage. We are concerned that it may stop any useful initiatives currently being undertaken by MNR's more forward-looking staff and will make further forestry legislative reform more difficult in the future.

We urge the government to withdraw this bill, make a commitment to real sustainable forestry, and present legislation that would mandate that necessary reform. Thank you.

Mr Michael A. Brown (Algoma-Manitoulin): Thank you for coming. You have presented us with a lot of food for thought. We agree that this is a public relations exercise, as you've pointed out, and other presenters have gone so far as to call the title a fraud. If we were to consider this a timber management bill, not a forest management bill but a timber management bill—which I think it is; good or bad, that's what it is—would you see this as an improvement over the present Crown Timber Act or a regressive step?

Ms Swenarchuk: I think it's a regressive step. The only thing that's of use, really, in evaluating sustainability in the Crown Timber Act is that definition of sustained yield. We argued during the timber environmental assessment that MNR's approach to timber management does not comply with that act. I have the sneaking suspicion that maybe that's why the definition's gone now. There's nothing in this act that I feel would improve timber management in the province.

We all know we don't get a lot of chances for legislative reform in any particular sector, and we really are concerned that if this act is passed now, this is going to be it for the next, what, 10 years, 20 years. The Crown Timber Act has been around for a long time. We just don't think it should go forward.

Mr Frank Miclash (Kenora): You indicated, "The legal confusion is real," in your brief. I'm wondering if

you could expand on the conflict you see between the class EA and Bill 171.

Ms Swenarchuk: Let's go back a little bit. This was my first reaction when I saw this act, and it's the section that is going to deem timber management plans to be forest management plans.

There's a long history here. The Environmental Assessment Act was passed in 1975. Between that time and 1985, four drafts of an environmental assessment document for forest management—if you think about the Crown Timber Act, there still is mention of forest management in that act, and we have forest management agreements in the province. Four drafts of an EA called "forest management" were produced by MNR. Environmentalists and other people said: "This is much too narrow. It's not really forest management. It looks more like timber management." So the fifth one they produced and amended and took through the hearing was called "timber management," and they explicitly rejected arguments from us and others and evidence throughout the hearing that we need to move to forest management in the province, meaning integrated management of all resources on a given piece of land.

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They rejected that and they got their approval for timber management. They explicitly did not want and did not get an approval for forest management, and MNR did not support the kinds of approaches of various of us in the hearing to get even conditions of approval that would move towards forest management. They said, "No, it's timber management." So that's what they're now able to do. Now they simply say, "We're going to do forest management because we're going to call them all forest management plans."

It's very difficult to figure out what a court would do with that if one of us went to court and said: "Excuse me. If MNR is now doing forest management, it has to get an environmental assessment approval and do it properly." Explaining all the ins and outs of forest and timber management to a court would not be an easy thing to do, but that was my first reaction when I saw the act: They don't have an approval for forest management, and I think that's a problem.

The Vice-Chair: Mr Hodgson's next.

Mr Chris Hodgson (Victoria-Haliburton): Thank you very much, Mr Chair. It's a pleasure to see you back with your voice.

The Vice-Chair: Not quite, but it's getting there.

Mr Hodgson: I'd like to follow up. Thank you very much for your presentation. It's excellent. This legal confusion was mentioned yesterday by Marie Rauter of the Ontario Forest Industries Association—

Ms Swenarchuk: Yes, I thought they might have some concern.

Mr Hodgson: —that maybe they don't have the mandate.

I would just like to go back. Correct me if I'm wrong, but the impression I had of this act was that it enabled us to move in the future towards managing a forest as a whole because, in recognition of what you said, you only

get one crack at it every 15 or 20 years to get forestry on the legislative agenda at Queen's Park. Do you not agree with that, that this act would enable us to work towards forest management as we get more data and a base to measure results from?

Ms Swenarchuk: I don't think so. In the political reality of how this thing exists, I think it exists to legislate the approach that senior management and MNR achieved through the Environmental Assessment Act hearings and to put a gloss on it: a title. When we have a bill which says, "Timber management plans are now going to be called forest management plans," to me that just shuts the lid on changing the planning process to what forest management would really be.

Of course, we always need more data. All of us have said we don't have enough forest management data etc. As we go down the road there will always be more, but we have far more than enough now to do the job properly and, as I say, I think there are lots of people within MNR who want to do that. I don't think we need more information. I think we need a commitment from the ministry that that's what we're going to do, and my reading of this act is that it's a commitment that that's not what they're going to do.

Mr Hodgson: You blame the ministry staff for the gloss, but it was pointed out in these hearings that some of the gloss was already alluded to in political documents published in February.

Ms Swenarchuk: I didn't blame the minister's staff. I think I said the ministry overall. I don't know who made the decisions here. I could guess, but—

Mr Hodgson: But you suspect it's a political act. Thank you very much.

Mr Robert W. Runciman (Leeds-Grenville): You're suggesting about the legal confusion and the environmental assessment decision. Just a yes or no answer, since we have such limited time: Are you suggesting or are you committing yourself or your organization to a legal challenge or are you just simply suggesting that—

Ms Swenarchuk: No, we haven't made a decision like that.

Mr Runciman: But the threat is there, I assume. You feel it's open to challenge.

Ms Swenarchuk: I think it's open to challenge, yes.

Mr Runciman: I'm just curious about your sustainability—I know we don't have much time to talk about this—and your concern about sustained yields. We talk about 10 or 15 years it takes the Legislature to look at these kinds of questions, historically. When does your organization see Ontario getting into a so-called crisis situation in terms of sustainability?

Ms Swenarchuk: There are lots of MNR data, some of which we cite there, which indicate that in various parts of the province there are wood shortages now. I didn't come armed with the list, but they're in that information. Overall, we are not regenerating at the level we're cutting. We're still having to go over the next hill and get the next bit of natural forest. We are clearly, province-wide, cutting more than we're regenerating.

Mr Len Wood (Cochrane North): Thank you for

your presentation. I just want to cover a couple of areas. You're saying that you don't feel there are enough enforcement provisions in the act. I want to point out that there are a number of areas: In section 31, the minister can amend the licence; under the regulations, there's a clause which allows the amendment of a licence; in regulation 67.1, there's an area there for the minister to regulate licences. There are a number of areas.

When we get into the enforcement provisions, I understand that under the Timber Act now the only provision there is to shut down a town, and then you end up with hundreds or thousands of people camped out on the lawn of the Legislature.

When Mike Harris was Minister of Natural Resources and Lyn McLeod was Minister of Natural Resources, they didn't have the clout under the timber act to be able to make the amendments and the changes that we have under the new act.

There are a number of areas where there are enforcement provisions right now. If there's lake or river damage, there's no question in the minister's mind that the stop-work order is put there and a cleanup has to take place. There are enforcement rules there, but under the timber act right now there is nothing other than shutting down a complete town or a complete operation.

We have progressive steps for fines replacing the damage that has been done, up to the point where court action can be taken with a fine of up to \$1 million. I don't have time to get into more detail, but I wonder if you want to comment on that.

Ms Swenarchuk: Was that a question?

The Vice-Chair: Sometimes it's not so much a question as an invitation to comment, but you don't have to comment; it's up to you.

Ms Swenarchuk: I certainly disagree with that characterization of what the Crown Timber Act enforcement provisions entail. But my point was—if you read the brief, we say we are pleased to see that there are more enforcement provisions in this bill; we just really question the commitment within MNR to use them.

Mr Gilles Bisson (Cochrane South): I don't think there'll be enough time, but I just say that, as a northerner, I'm certainly glad the legislation is not drafted the way you propose. I think it would be very dangerous for industry. I'll be quite honest with you.

The comment you make is that the ministry has never cancelled an FMA. Could it possibly be that sometimes the industry does not always do things perfectly but is doing not too bad a job when it comes to managing its forest management agreements? I disagree with your brief.

The Vice-Chair: That was a quick comment from Mr Bisson—unusually brief. Thank you very much. You certainly made your views very clear, and I'm sure the committee will take them into consideration.

1030

ONTARIO CHAMBER OF COMMERCE

Mr Joe Couto: Thank you, Mr Chair and members of the committee, for allowing the Ontario Chamber of

Commerce to make this presentation. The Ontario chamber represents 65,000 businesses across Ontario and more than 205 community chambers and boards of trade.

We'd like to particularly emphasize the fact that we have been approached by many individual forestry-related businesses and chambers from northern Ontario who were not themselves able to participate in these hearings. We wish on their behalf to relay their comments and concerns to members of the committee, as well as the concerns of secondary manufacturers throughout Ontario that depend on a healthy forestry industry for their materials.

The Ontario Chamber of Commerce supports the introduction of new legislation that will assist the forestry industry in remaining economically competitive while adhering to good sustainable development practices. In considering the legislation, we feel that it is important that the committee be aware of the economic hardships the industry and its dependent employees and communities have endured during the recent recession.

In 1989, the industry directly employed 84,000 workers, with recorded sales of more than \$11 billion. By 1991, the number of workers was down to 64,000 and sales had dipped to \$9 billion. The graphs provided in the addendum section indicate clearly the serious circumstances that the industry has suffered during the recession.

When we take into account that indirect and induced employment adds another 128,000 jobs dependent on the forestry industry, it is important that this legislation ensure that it aids future economic growth for the forestry industry in Ontario.

In consulting with our members from such communities as Fort Frances and Kapuskasing, we have become acutely aware of the dominant position of the forestry industry in these communities. It is crucial that the ministry get the proposed legislation right in order to assist in the preservation and growth of such communities.

A key concern expressed by our members in both the forest industry and the financial community revolves around the security of the wood supply and how attractive the industry will be in terms of investment in the future. We asked two senior forestry analysts from two leading financial institutions, from the chamber of commerce, about the tenure question and were told that the legislation as drafted raises serious concerns regarding the lack of needed long-term tenure for Ontario forest companies.

These analysts indicated that financial institutions are concerned about any legislative initiative which might add to the volatility inherent in this sector, particularly given the recent timber harvesting cutbacks in the northwest US and in British Columbia. Specifically, they suggested that the tenure component of Bill 171 is much too vague and allows the minister licence to amend a resource licence without consulting with the licence holder and without due consideration of the affected business' requirements.

Unless these aspects of the bill are redrafted to allow for a greater security of wood supply, we fear that financial institutions may take this as a signal that the

Ontario government does not believe in the future viability of the forestry industry as a strong contributor to Ontario's economy. This would, in our opinion, be the wrong message at a time when the industry is slowly turning around.

Our members in the forest industry are conscious of their obligation to ensure regeneration of the forest lands they harvest and expect that the government will continue to ensure a secure supply into the future. Forest management agreements between the government and the industry have in the past offered the security needed for an industry that has invested over \$1 billion since 1991. It is essential that Bill 171 be amended to ensure that financial institutions continue to regard Ontario's forest industry as a viable industry in terms of financial commitment.

We also request that an independent analyst from a financial institution be requested to provide an opinion to this committee regarding the economic impact of the tenure question on the forest industry with regard to future access to capital for investment purposes.

Our members have also expressed concern regarding the increasing number of obligations they will face under Bill 171 and the impact this may have on their ability to run their businesses and create jobs.

Concern has been raised about the slight but significant change from the term "timber" to "forest" in the legislation when discussing the types of information and management practices required from the industry. The use of "forest" instead of the more specific "timber" implies that our members will be responsible for managing all elements of the forest.

This has caused confusion because our forest industry members are aware that the timber Environmental Assessment Board has clearly defined the roles of both the industry and the government in timber management. Our members would not be able to manage any increases in responsibilities at this time. Again, members of the committee should keep in mind the economic situation facing the industry and the fact that the industry needs to concentrate on strengthening itself after the recession. Forest management should be a joint responsibility between the forest industry and the government.

We support the timber EA board's ruling that the industry should be primarily responsible for the information on timber-related activities while the government should look after other aspects of forest management. The Ontario chamber recommends that the government work in partnership with the industry on this matter.

Recently, the Ontario chamber commented on the environmental statement of values issued by 14 separate Ontario ministries. The common problem in most of the proposed ESVs was the inconsistent use of the term "sustainable" when referring to the environment and the need to act in an environmentally beneficial way. The fact that "sustainable development" and other similar terms are rarely qualified leaves too much room for interpretation and vagueness.

We mention this because Bill 171 has succumbed to the same disease, that sees a variety of different terms

being employed when dealing with the environment without qualifying the precise meaning and implications of these terms. This is particularly surprising, given that we regard the Ministry of Natural Resources' own ESV as one of the better ones in terms of clarity and vision.

The proposed legislation fails to define such phrases as "forest ecosystem" and does not assist our members in determining what information might be acceptable for such terms as "damage" or "loss." We are concerned that the proposed manuals, where such terms may be defined or qualified, may be revised at the ministry's discretion.

Without a concentrated effort to eliminate this vagueness from the legislation, we believe that uncertainty will result, adding to our members' frustration in dealing with this legislation. We urge the ministry to consult with the industry on working out clear definitions and qualifiable data for such vague terms and phrases and that they be clearly communicated to industry members.

Our members have expressed concern about the legislation's apparent emphasis on the stick rather than the carrot when it comes to the enforcement aspects of Bill 171. The power vested in the minister regarding preventive orders are unnecessarily left up to discretion and puts the emphasis on punishing the alleged perpetrator of the offence rather than in working to ensure that such offences are prevented in the first place.

Essentially, the relationship between the ministry and a company is a business one and should be resolved by negotiations and commitment to working in partnership, not on punitive action. Avoidance of court action is in everybody's interest. We recommend that the ministry recognize initiatives such as the Ontario Forest Industries Association's implementation of a code of forest practice and redraft the sections of Bill 171 dealing with remedies and enforcement to focus on positive incentives and rewards.

We commend the ministry for recognizing the need to update legislation governing the manner in which crown forests are managed. The final legislation will have a tremendous impact on the way our forest industry members operate in the future and will of course impact our other members who rely on the forest industry for their materials.

While we have felt compelled to point out the serious flaws in Bill 171 as drafted, we would like to commend the ministry on the proposals to establish trust funds and encourage sustainability in the forest industry, and the establishment of advisory committees.

Our members are confident that these two proposals are positive steps in encouraging partnership among the industry, the government and other stakeholders, and in ensuring a positive future for the industry. With regard to the advisory committees, the Ontario chamber would like to point out that many of its members already actively participate with local citizens and groups in their various communities to ensure that their local forest industry thrives and jobs are created.

We trust that the spirit of cooperation evidenced in these two proposals will be reflected in changes to other less positive aspects of the bill. Thank you very much.

Mr Runciman: You were sitting in the audience while the opening presenter commented on the act from another perspective, significantly different from the chamber's. How do we as committee members reconcile those two views which seem to be at opposite ends of the spectrum? To put it in very basic terms, who's telling the truth? How do we judge that as committee members?

Mr Couto: We're definitely coming at it from two different perspectives. As an employer group, as Mr Bisson pointed out, we are very concerned that northern communities have sustainable forest industries, sustainable in both the economic sense and environmental sense.

Mr Runciman: But we're being told by the previous presenter that that isn't the case and that this act is not going to enhance the situation; that in fact it's going to create even more difficulties than currently exist.

Mr Couto: The concern we have with the act as it's drafted is that it leaves a lot of holes, shall we say? Definitions: When we went to our members and asked them, "What are your concerns?" most of them said, "In reading the bill, we're left up in the air in terms of the vagueness about sustainability and all that."

Mr Runciman: I want to narrow this down to the question of sustainability, the position CELA took with us and the position you're taking. Is there a concern among the chamber members, in the north especially, with respect to some of the conclusions CELA's drawing? I mentioned "crisis situation," and the witness indicated that there are already sections of Ontario that are, in her view and her organization's view, in crisis situations now. If you're looking down the road, if what she's saying is accurate, is your view rather short-term, not really taking into consideration what the impact may be 15 or 20 years from now?

Mr Couto: The bill itself, as currently drafted, is not defined well enough. It hasn't gone the full 10 yards, if you will. It's very vague, I think, and it's leaving a lot of questions up in the air, particularly regarding tenure. That's our main concern, quite frankly. When we did talk to others in the chamber who analyse the forest industry for the major institutions, their prime concern was: Is this bill going to secure tenure? Is this bill going to assure that we're going to have an adequate supply in the future? The consensus was, "As currently drafted, no, it will not."

I think the bill itself right now is short-term because the impact it will have on the industry will be a negative one, and if the industry is not healthy, it doesn't matter what we're doing on the environmental side of it; the industry will keep going down and down and will be negatively impacted.

1040

Mr Hodgson: Thank you, Joe. I just have one question basically, on your recommendations and conclusion. You feel "compelled to point out the serious flaws in Bill 171 as drafted [but] would like to commend the ministry on proposals to establish trust funds to encourage sustainability of the forest industry, and the establishment of advisory committees."

The trust funds, as you are aware, are not established

under this bill; they're established under Bill 160, and they're going to be putting in place a trustee and administering that. The citizens' committees are a legal requirement from the timber EA; they have to do that. Given that those two things are not a direct result of Bill 171, is there anything in Bill 171 besides those two things you point out that improve the situation in your communities?

Mr Couto: I think the consensus is, no. I pointed out the two aspects simply to make the committee aware that we get awfully tired of coming down here and just arguing with the government, whatever party that might be. We commend the government as a whole for putting this through.

The overall impact that I see from the bill, as far as our members are concerned, is that it leaves too much up in the air. Perhaps what we need to do is step back a little bit. I know you've been hearing a lot from all kinds of different groups. I know you had the industry association in here yesterday, which presented you with quite a load of material. A lot of things in there are very specific, and what we've seen of it, we support. I think we need to step back here, and we really need to gauge this legislation. Right now, as far as we're concerned, the economic impact will be more negative than positive, but I think the bill can be salvaged if there is the will to do it, putting aside other concerns or agendas.

Mr Bisson: Thank you very much for your presentation. It's always a pleasure to hear from the chamber. Maybe I can help you in your own mind to salvage the bill, to a certain extent, by clearing up a few misconceptions.

As to the comment that Bill 160 sets up the trust funds, what Bill 160 is is enabling legislation that allows us to set up the trust funds. You need a mechanism by which to operate those trust funds, which is found within this bill.

On the question of the citizens' committees, yes, they're a requirement of the EA, but as a requirement of the EA they have to be done somewhere. You just can't all of a sudden say, "I'm setting up a citizens' committee." You have to have some kind of legislation that governs how you set up those committees, what the structures are, and all of that is defined through the legislation and regulation.

Two other points: The question of tenure is something this committee has heard throughout northern Ontario and the south. Under the present Crown Timber Act, there is no tenure for the 20-year clause, or the evergreen clause, as it's commonly referred to. The Crown Timber Act is silent on that. What it does is give the ability to the crown to sign an agreement with a party such as Abitibi, whoever it might be, and in that agreement you sign that you have tenure for a 20-year period, renewable every five years, in the actual agreement.

The same holds true in this legislation. It's not in the legislation, as it was not in the Crown Timber Act, which was the norm since the Crown Timber Act and FMAs have been in place. It's how people have gone out to borrow hundreds of millions of dollars through the banks and various means, have utilized their agreement as the security of tenure. That's also entailed, the same type of

principles, within this legislation. The other thing is the cancellation of the licence. Under the old act, the minister could cancel the licence and there's probably not a heck of a lot you can do about it. Under this act, there is a process you can go through. The minister can't just on a whim cancel a licence; it's prescribed in the legislation and regulations what allows him to do that. But if he or she chooses to do it, for whatever reason, obviously it would be a very flagrant misuse of their FMA, their agreement. There is a process in there by which the licensee could petition the minister and actually make presentation. It's spelled out quite clearly in the legislation under 56(3)(a) and (b). So it does do what you ask it to do.

I want to pick up on Mr Runciman's point. The previous presenter basically said to us that "What we wanted is a more rigorous exercise that would really bind forest companies to managing the ecosystem in a much more defined way than it is under this legislation." I think the long and the short of it is that she felt the forest companies were not paying their fair share. That's sort of what she was saying if you listened to her presentation. As a representative of the chamber, do you feel that's a direction the government should be taking, that we should be trying to hold forest companies more to task, or do you think we need to try to find a balance? What's your view?

Mr Couto: In any kind of situation where the government basically regulates an industry, you need a balance. That's a given. In listening to the previous speaker, the impression I got is that she and her group felt that the forest industry companies somehow have squirrelled away tons of money, that it's in the back room and if we just access it, everything would be great.

I provide a few graphs that show the state of the economy for the industry and the debt the industry is in currently, from 1989, when the debt was \$1.4 billion, to where it is in 1992—the latest figures I have—of \$2.7 billion. It indicates that we have a significant problem if you're going to be asking the companies to invest more money in doing what she was getting at. Quite simply, there is no money to do that. They're struggling right now just to save jobs. The figures for unemployment, as you know, being a northerner, are staggering. They are especially staggering when you consider that these communities are smaller communities sometimes, depending on that industry up there.

I would not agree with her that it is because our members aren't doing enough. We're doing what's required under the law and we're doing the best we can, but we must keep in mind the economics. It's not simply environment, it's not simply economics, it's not simply social justice. Everything has to be taken into context.

Mr Wood: I'm pleased that in your recommendations and conclusion you're saying that Bill 171 as drafted is going in the right direction. You're probably aware that since the decision was made to proceed on this basis with Bill 171, the Carman exercise renegotiating the FMAs, large investors have come forward and we've announced four new operations which are going to create between 1,500 and 2,000 jobs in northeastern and northwestern

Ontario, realizing that this is going to mean they're going to have the fibre they need to build these new plants and help to stabilize the communities and the jobs that are there now and create new jobs over the next number of months. Probably in the next 18 months most of these operations will be up and running, and the communities will feel a lot better knowing they have new jobs there and that the jobs they have are being secured.

In my opinion, without Bill 171 this wouldn't have been possible. We've heard people come forward and say: "Look. We've argued for the last 15 years that the timber act is not doing the job." There have been no new plants or industry open up in 15 years, and now we have announced four within the last two or three months. I just wondered if you want to comment on that as a result of Bill 171.

Mr Couto: New jobs and new investment are always great, of course, and we share your enthusiasm for that. Whether that's solely because of 171—we'll leave that up to those people to answer, if you'd like to ask them.

Mr Wood: There are a few hundred million dollars being invested.

Mr Couto: Sure, and that's great. You and I agree about that. My concern, one that's been expressed by the financial analysts whom I mentioned we spoke to, is that they do have some concerns, and I haven't seen them at these hearings. I may have missed them, I don't know. I think it's very important that you go to the financial institutions and ask them: "Is this good legislation? Are there things we can fix to make it better?" if there are concerns—what kind of impact it's going to have on tenure and other economic questions.

Mr Wood: They're not lining up at the door to condemn the legislation.

1050

Mr Miclash: Joe, thank you very much for your presentation. I particularly enjoyed your views as you've gathered them from the northern chambers. You just touched a bit on security of tenure. I'm wondering if you could give us a few more examples of where you can see the negative impact on industry, should it not secure that tenure.

Mr Couto: As you know, the forest industry is not simply cutting trees. It's a very long process, where it goes through to the person here in Toronto who sells furniture, for instance, who sells paper products. If we don't get it right at the source, where we're cutting the trees, harvesting them, it's going to have a domino effect all the way down.

I have talked to some of the secondary manufacturers, who do not know a lot about this bill because it doesn't concern them directly, but constantly and unanimously, no matter what industry they're in, they insist that the supply of wood is the number one priority.

We can talk about all the other good things we need in terms of sustainability, in terms of setting up advisory committees and all that, that's all fine and good, but if we don't have the security to give our financial institutions the confidence in the industry, all the way down the line it's going to mean jobs, it's going to mean commun-

ities being severely affected. That's why this bill needs to be gotten right now. The previous speaker mentioned that forestry is usually not at the top of the legislative agenda, and I would agree with that, so we have to get this right and we have to get it right now.

Mr Miclash: I appreciate that. You also touched a bit on the committees. As you know, section 12 calls upon the minister to set up these citizens' committees. From the chamber's point of view, what does it see as the setup of the committees in terms of membership, and not only that, but the mandate of these citizens' committees?

Mr Couto: I think you need to ensure that the make-up of the committee reflects all communities. When we get into northern Ontario, of course we start having not only labour and business and environmental groups but also aboriginal peoples, tourist operations. Quite frankly, this will have an impact on our tourist operators.

What we need to do is to see what's already being done. There are already citizens' committees. I know there's one in Kapuskasing. I think we need to look at them first, use them as templates, and then go and make sure we've covered all the bases.

In terms of a mandate, job one should be the future viability of the forest industry. Again, if we don't have forestry being harvested into the future, long-term, it doesn't matter: We can talk about the environment all we like; it's not going to be there. And that impacts on workers, it impacts on companies and it impacts on communities. If you go to Fort Frances and ask them, "What would happen if the industry in this town went down?" you know what the answer would be.

Mr Miclash: Or Kenora, Dryden.

Mr Couto: I urge the committee to really look at this and make sure they get it right. It's very important, this bill.

The Vice-Chair: If there are no further questions, we appreciate your presentation and appearance before the committee. As you know, in two weeks we'll have clause-by-clause consideration.

Mr Couto: Thank you, Mr Chairman.
WILBERFORCE VENEER

The Vice-Chair: The next presenter is Wilberforce Veneer, represented by Yvonne Shamash. Please take a seat and go right ahead.

Ms Yvonne Shamash: Good morning. I'm a little nervous about public speaking, but I think I'll get through this.

First of all, I'd like to introduce myself. I'm Yvonne Shamash. I'm the general manager of Wilberforce Veneer. We are medium-sized rotary cut veneer mill in Haliburton county and we specialize in cut-to-size. Ninety to 95% of our production is for export, primarily to the US market. However, we do export a little to the Far East. Demand for our product has been on the rise over the last two years and it's still increasing. Both our sales and employment have also doubled over the last two years.

The mill is in Wilberforce, Ontario, and is one of the largest employers in Haliburton county. It was established

in 1937 and has continued to produce unfailingly, despite several changes in ownership.

The mill produces veneers in poplar, beech, oak, birch and cherry. However, most of the mill's production is hard maple. Raw material requirements average 2.6 million board feet annually, which isn't very much. Average employment at the mill is 50 people full-time, at an average wage of \$10.25 an hour, which is fairly high for the area. We also create many seasonal jobs through logging etc. Most of our purchasing is conducted primarily within a 200-kilometre radius of the mill.

The reason I have come here today to speak to you is that I want to talk to you about the frustrations of maintaining inventory minimums for small and medium-sized operators. For a business like ours, it is essential to have a certain degree of predictability for supply. This ensures for our employees a consistent level of employment, and it allows us to plan our production levels and service our customers. In addition, unpredictable inventory problems create bad morale, low morale problems, which is just awful for a business.

In essence, it is impossible for us to run our business in an efficient, effective manner under conditions of very low inventory levels or non-existent inventory levels. Our mill, like many other small operations, competes on international markets. These conditions make us ineffective and vulnerable. No one likes an unreliable supplier. During the last two years, we have had to turn down several substantial supply contracts that would have provided the mill and its employees security through the future years. We could not guarantee that we could consistently produce at certain levels; therefore we couldn't accept these contracts.

Our timber supply comes from 100% private sources. There isn't a lot of information on private sources, and these sources are also often unreliable. The ministry has not been able to provide us any assistance. There have been some crown timber tenders available over the last couple of years, but often they are small, they're few and far between, and they're unreliable.

One year ago, out of desperation, we began to buy blocks of private standing timber, which we harvested ourselves using local contractors. This allowed us some degree of predictability: We were able to plan our production for months at a time; we knew what our employment levels were going to be. Unfortunately, it's not always possible to find private timber to harvest. This summer, for example, despite a great degree of time, effort and money, we were unable to find a block of private timber to cut. As a direct result, 12 employees are on indefinite layoff and we do not believe we can sustain production through the fall. We are not alone in this dilemma.

It would seem to me that you as a committee, concerned with managing crown timber in a sustainable way to meet social, economic and environmental needs, would have a definite mandate to take a very serious look at the economic contributions of smaller and medium-sized mills to their respective locales and the employment they generate. These mills need concrete assistance in maintaining minimum inventory levels specific to the mills.

Tendering crown timber is fine, but it's not going to give these mills a steady, reliable source of supply.

Also, small and medium-sized mills generally employ more people per wood volumes they use than do their larger counterparts, and generally in an area where unemployment is high. I believe some provision should be made to make sure that when you talk about licensing crown timber, small and medium-sized mills are guaranteed a certain percentage of the allocation. There should be certain criteria set up to look specifically at smaller and medium-sized businesses, because it does not seem reasonable to me to compare a small or medium-sized business to a very large one.

It seems unreasonable to expect that our supply would be guaranteed. However, I do not believe it is unreasonable for a stable, committed company to receive a small percentage or an allocation of supply so it is able to meet its customer requirements more effectively.

In these changing times, it is vital that Canadian companies meet the challenges they face. Without solving the problems smaller mills have with raw material supply, we'll miss the boat. Small business is a very significant sector of the forest industry and it is the sector that is growing rapidly. I feel this growth should be supported, and these companies need assistance to strengthen their foundations to achieve the excellence that's going to take us into the future.

I don't think I need to stress again the importance of our mill, or any of the small or medium-sized mills, to the local economies or to their employees. The financial contributions are substantial. However, I think it is very relevant to emphasize again the relationship between the amount of raw material that a small or medium-sized mill requires yearly and the employment levels. Our yearly raw material requirements are a very small figure in relation to the timber volumes harvested off crown land annually. Fifty full-time jobs is not. Thank you.

1100

Mr Wood: Thank you very much. I also have a concern about what we can do to make sure your operation remains viable. Under the present timber act of 1952, there is very little in that to allow for a third-party operation on crown land which might be licensed to an FMA, pulp and paper mill or whatever. Under the new act, there is a provision that the sharing of the resources is possible.

I don't know exactly, in your particular sawmill operation in Haliburton—I know the species of trees you're using there; they don't grow them in Kapuskasing. But I'm sure there are other crown forests out there that could possibly supply wood to your mill that are not available under the present timber act. That provision is covered under the legislation. I just want to get a reaction from you.

Ms Shamash: I've looked at a lot of reports over the past, and it seems to me it is always emphasized that in cases of small and medium-sized businesses that have been established, the ministry is willing to do everything in its power to help these businesses out. I've never seen it, and I think we are very important. It's one thing to

have the bigger mills and support them, but the smaller mills have to compete against these bigger mills that have a lot of their timber supply guaranteed, and I think there's got to be a very special criterion set out to help the smaller mills.

It's really not a fair market for us. We may not be able to compete against mills that employ 200, 300 people, but we're none the less as important. I just think it's very important that there is a very specific criterion for timber licensing to make sure that if you're going to do this, it goes to the right spot and it does the things you want it to do. That's my concern and that's why I'm here.

Mr Wood: There is a provision in the act being proposed that if there is a disagreement about how that resource should be shared, a mediator can be brought in to work out the final details of agreement about who should work off that particular crown forest on a third-party licence or on some other arrangement. Bob Carman, the negotiator on behalf of the province, which is the landlord for all of this land, is negotiating some terms and conditions now to have the FMAs transferred over to sustainable forests. So the intention is there.

Hopefully, as we get closer to clause-by-clause and listening to all the presentations—coming from a small town myself and representing about 12 or 13 other towns within my riding, all dependent on forestry—there is no mining, there is nothing else; it's totally forestry that they depend on—I can sympathize with you how important an operation of 25, 30 or 50 employees is to sustain that community and the surrounding areas.

Mr Miclash: Yvonne, thank you for the presentation. It's certainly given us a different perspective on the industry than we've heard so far throughout the north.

You indicated that the crown timber tenders were being unreliable. I'm wondering if you can give us a little background on that and a little expansion.

Ms Shamash: Not unreliable—few and far between. We're being told that blocks of timber are going to come up for sale that aren't coming up for sale. A lot of the times it's because the ministry doesn't have the money to market or gets behind. These are things, if we know something is coming up, we watch for, and when it doesn't come up it really hurts us. There's no guarantee we're going to get the timber anyway; it's on the open market. But that's what I mean by unreliable: You can't count on the fact that the sales are actually going to come up when it's told they will come up.

Mr Miclash: So it's a problem between yourselves and the ministry, and the ministry not actually giving you guidance.

Ms Shamash: Yes. Information, I guess, communication.

Mr Brown: Thank you. It is a different perspective than we've heard before. We've spent most of our time in the last two weeks, in northern Ontario, talking about the large FMAs and a lot of issues, but not directly dealing with the people like you who are involved in the—you say most of your wood comes from private lands.

Ms Shamash: All of it.

Mr Brown: You know the government cancelled the managed forest rebate program to private land. Has that had an effect on your wood supply one way or the other?

Ms Shamash: Not yet. Haliburton county is probably one of the notorious counties right now. We have a very strong owners' association. What they plan to do in the future will quite possibly affect our wood supply. Right now, it's not. If they follow the course of action they're discussing right now, it will benefit our wood supply for the short term, because they'll cut.

Mr Brown: They may increase their cutting, actually.

Ms Shamash: They will increase their cutting.

Mr Brown: The problem we're having has been stated by a number of studies. There's about a 50% increase in available cutting in the province of Ontario. Now, whether that's in Haliburton county, I have no idea. But we don't know (a) how the ministry decides that there are surplus trees available for harvesting, or (b) what the criteria are for the successful bidder. They say it's competitive, but they don't give the criteria, and they claim it isn't just dollars, which we're finding very confusing.

Ms Shamash: It's dollars, as far as I'm concerned. They have the right to refuse your bid even if it's the highest, but I've never seen it done. Generally, it goes to the highest bidder.

Mr Brown: Not long ago, I was visiting a mill in Thessalon that would be, I suspect, somewhat similar to yours in that it was a veneer plant also, and one of the difficulties they're having is that in adjusting to the wood supply that's available to them they're going to have to retool. You're talking very large dollars, and they're not certain they want to put those dollars out, given the fact that even that wood supply is, at best, precarious. Is that affecting your particular business?

Ms Shamash: It is, but we were forced into making the changes a little earlier. We haven't done anything with our machinery yet. Accepting smaller wood, changing our machinery—we haven't done that. However, we've changed our operation to accept a lower-grade piece of wood. We've changed what we sell to accept a lower-grade wood. We've broadened the types of species we take, so we're not running 100% hard maple, we're doing other veneers; we're buying in random lengths; we're taking shorter blocks; we've started sawing a very small amount of lumber to take care of our downgraded logs so our log suppliers are happy with us. They don't have to take logs back.

It's a big problem. We've tried to make deals with other mills of the same size to trade raw material to make each other's inventory stretch harder. But as for retooling our equipment, until we see that this company is viable long-term, we will not do any big retooling, we will not make any big changes, because we see maybe 10 years. There's no point. Are we going to invest \$2 million in a company that's not going to have the raw material to run? With the problems we're having now, we're going to be shut down two months this fall. It's not worth it.

Mr Brown: One of the other issues that has been raised by a number of small operators, and these tend to

be the independent loggers, not the companies, is the whole issue of scaling. Has that been a particular problem, getting consistent values?

Ms Shamash: The ministry scalers?

Mr Brown: Yes. I guess most use is for private land, so maybe this question isn't—

Ms Shamash: We scale differently than the ministry would. We use Ontario log rule and the ministry scales metric. The biggest problem we've seen with this is that you've got two groups that are working together that are speaking completely different languages. We don't understand what they're talking about and they don't understand what we're talking about—

The Vice-Chair: Sounds familiar.

Ms Shamash: —so by the time the conversions are done, it's too late.

Mr Brown: Someone said it sounds familiar. That's usually what's going on around here.

That's good. Thank you for your help.

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The Vice-Chair: We'll see whether Mr Hodgson has some questions and we can ensure that we understand each other.

Mr Hodgson: Thank you very much, Mr Chair. I guess as everybody realizes, I'm from Haliburton county, and Yvonne's one of our major—they've heard our concerns for two weeks on the road, and I've brought your concern up in the Legislature earlier this year, in June. Yvonne's worked awfully hard, I want to let people know, to make this a viable industry in our area. We do have a high unemployment rate, 27% to 30%, so when Yvonne talks about jobs being very important to our community she's speaking exactly right, and we should all be concerned about that.

In this act there is an improvement, I think, under section 35, and it's what Mr Wood alluded to, that a third-party licence could be granted. You're cutting mainly the high-quality. If you had the high-quality stuff off some of these crown reserves—

Ms Shamash: That's the ideal situation.

Mr Hodgson: Yes. We do not have FMAs in our area, we have crown units, and they've been allocated to mills outside our area, quite a distance away. They compete on the private land as well, because the cost—if I'm getting this correct, and you might want to comment on this—for the crown units is low enough that they can borrow to also tie up the private land and compete on the private land for the wood supply and virtually create little monopolies up there. The difference is that if Yvonne can't get the lumber at a predictable rate and high quality—we're talking about best end use—she has to cut back from three shifts to two shifts to one shift and, this fall, it might be none, then our unemployment rate goes up and they're on other programs. Yvonne, would you like to comment?

Ms Shamash: Yes. It seems absolutely crazy to me, because all these people have been running around talking about the best use of our forests. I've seen it said very, very vocally: "We have got to use our wood in the

best way and every tree's got to go where it's going to generate the most jobs and the most money." Well, why isn't it being done? All these big mills have these licences, and I don't see the wood going to where it would create the most jobs and have the most economic and social value.

Coming back to the small and medium-sized mills, we're very powerful when you look at how good an impact we can have. If you want to manage forests, we're not cutting 26 million, 30 million board feet to run our mill; 2.6 board feet is not a hell of a lot. We're a lot more flexible and a lot more able to cut timber responsibly, to take the time for stand improvement. We're not rich, but we do have resources, and it really drives me crazy when I see sawmills cutting crown timber and taking slicer veneer logs and rotary veneer logs and cutting them into lumber. It doesn't make sense. You're looking at your slicer logs and your rotary veneer logs—they're going overseas, and export is so important to this country. It's absolutely crazy.

I, as a rotary veneer mill, don't expect to see my yard full of slicer logs. They have a better spot. But I do think when you look at what we need and what a sawmill needs and what these different companies need, if there were a better way to distribute the wood that's coming off these properties without getting everybody out of joint, then yes, you're going to create a lot more jobs and in the end effect you're going to have a hell of a better forest and better communities, and there's going to be more revenue generated.

Mr Hodgson: Yvonne, do you think you could do that through stumpage fees, if you had it so that the stumpage fee was based on the price of the tree as it is on private lands, and you'd have to take it to where you can get the best dollar?

Ms Shamash: You mean every tree is priced for its value?

Mr Hodgson: Well, a veneer tree is worth more than just a slicer log to you.

Ms Shamash: It would be a good idea, but it would really be hard to implement. Can you imagine placing a stumpage on every tree on a thousand acres? It would be real, real hard.

Mr Hodgson: You'd have to it by sampling.

Ms Shamash: Yes. It's like marked timber. Nobody agrees with the way the ministry marks timber. So if you have somebody marking trees for veneer, like grades 1 and 2, I think it'd be a nightmare.

Mr Hodgson: You can't really tell till you get it cut.

Ms Shamash: The best way is to do it somehow through scaling, because a scaler looks at every log and knows what it is.

Mr Hodgson: Yvonne, I'd like to thank you for taking the day off work and driving three hours to come down and see us.

The Vice-Chair: Thank you very much. We certainly appreciate, as Mr Hodgson said, your appearance before the committee, and your comments will certainly be taken into consideration.

Mr Bisson: I realize the rotation was missed—I wasn't here—but is there an opportunity just to ask how she would achieve best end use? Do we have the time?

The Vice-Chair: We can always ask the committee whether we want to give Mr Bisson another chance. Okay, Mr Bisson.

Mr Bisson: The question is, how would you adopt a best-end-use policy? What would you suggest?

Ms Shamash: Like I said to Chris, after the logs are cut they'd have to be scaled and it would have to be determined there. You would have to work very closely with industry to determine very, very strict grade guidelines, because you can't benefit the veneer mills and put the sawmills out of business. But there is a log that is strictly veneer, there is a log that is a sawmill log, and there is a log that's a slicer log, and there are very strict grade guidelines on that. That could be marked out in every bush, just like they talk about giving mills that use primarily certain species first dibs for the certain species. The same thing with grade: You mark out grades 1, 2 and 3. Grade 1 is a slicer log, grade 2 is a rotary log and grade 3 is a sawmill log. I think that would be the easiest, most economical way to do it, because you're going to get different logs in the same tree. Also, length guidelines.

Mr Bisson: So through regulations of the scalers is what you're saying.

Ms Shamash: I think that's the only way it can be done, because also, if you have a tree, you're going to have maybe one rotary log, a slicer log and a sawmill log.

The Vice-Chair: Again, thanks for coming before the committee.

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BROLAND ENTERPRISES INC
ONTARIO SILVICULTURAL
CONTRACTORS ASSOCIATION

The Vice-Chair: The next presenter is Ontario Silvicultural Contractors Association, Mr Grant Brodeur.

Mr Grant Brodeur: Good morning. If it's okay with everybody, I'd like to read my presentation, as I believe you all have a copy. I would like to thank you for the opportunity to present the views of both Broland Enterprises Inc and the Ontario Silvicultural Contractors Association, for which I am president of both.

The proposed bill is going to have profound effect on the way our clients, both the MNR and FMA holders in the province, do business and thus how we conduct our business in turn. Although the amount of time to thoroughly review the bill is limited, especially in terms of the working manuals, I will be able to comment on general areas of support and areas of concern. I trust the FMA holders are preparing an in-depth review of the bill, and we would certainly support their direction in the modification of the bill. In general terms, what is good for our clients is usually good for silvicultural contractors.

Broland Enterprises Inc is a silvicultural contractor, with head office currently relocating from Toronto to Thunder Bay. The move will hopefully position Broland

to focus on the eventual opportunities that may arise as a result of this bill. Broland currently plants 10 million seedlings a year and has diverse operations in thinning, tending, spraying, nursery work and site preparation.

The Ontario Silvicultural Contractors Association is a provincial association dedicated to assuring the sustainability of Ontario's forests. Currently, the membership represents the majority of the work conducted in the province. Unfortunately, as the provincial budgets for forest renewal have been slashed during the past year, so have the association's operating budgets, as contractors have been going out of business.

I'd first like to talk about areas of support for the bill.

A new direction: Support is given to the process of updating the existing Crown Timber Act. Bill 171, once passed, will allow for the sustainability of the forest by a collective of all stakeholders and users of the provincial forests. However, the point must be made about whether there is sufficient time in the bill's proposed timetable to fully develop enabling legislation which will be supported by all the affected and interested parties.

In order for the province to consider the forests to be managed for sustainability, the power must be given to the trained and competent professionals to act as they see fit. Through consultation with all the users and stakeholders, the professionals are best suited to make the decisions for the public as to what is best for the forests.

The new powers given to the minister in the bill should be reviewed to eliminate the discretion, so as to maintain a level playing field.

Trust funds: During the past five years, we have experienced drastic reductions in the provincial forest renewal budget. As a direct result of budget cuts, we have watched the number of seedlings planted in the province virtually cut in half from a high of 175 million in the early 1990s. Even with the artificial cap on seedlings planted at the 175 million trees, demand was for more seedlings.

Both British Columbia and Sweden harvest virtually the same amount as Ontario but have considerably larger replanting programs. As a result of the severe cuts in the provincial forest renewal budgets, Ontario is risking the sustainability of not only the forests but of the economy as well. Without a well-planned forest renewal program, there simply will be no trees to cut and no taxes to collect.

The proposed forest renewal trust fund and the forestry futures trust aim at alleviating the concern of budget cutbacks for forest renewal. This section of the bill is by far the most important aspect of the bill with regard to the provincial forest renewal and stewardship programs. Without a safe, secured and auditable source of funding, the forest cannot be sustained for future generations.

Advisory committees: The establishment of advisory committees is supported by not only the groups I represent today but by all stakeholders and concerned interest groups. By participating in the local decision-making and by having knowledge of the process of sustaining the forests, everybody wins.

An area of concern is the composition, function and

power of the various committees. Perhaps the bill should consider the detailed work that has already been completed by the class EA, and accept the board's term and condition 4(a) and (b).

Timber to forest management: The concept of timber management to forest management is widely accepted in order to have sustainable development. However, concern must be expressed over simply the exchanging of "timber" with "forest" without a full review of the implications. Consideration must be given to who is the best-suited manager of the forest.

The recent class EA ruled on timber management, and I would not expect that the government would invite a new EA hearing on forest management in the near future, all things considered.

Certainly the timber harvesting companies are not in a position to manage the forest when there is such a vast array of management areas they not only have no interest in but no expertise either; for example, a blueberry patch 500 miles from any ongoing operations.

Now I will deal with some particular areas of concern.

The need for a pre-harvest prescription: The legislation as currently written suggests the minister "may" require a pre-harvest prescription. How is a plan to be written to ensure sustainability if there is no plan at time of harvest? Without a thorough plan prior to harvest, the forest is already deprived of potential valuable natural renewal resources. By identifying and planning for areas with advanced understorey, potential seed trees, and other natural tools of forest renewal, sustainability and biodiversity targets are far easier and less expensive to achieve.

I would recommend that in subsection 13(1), the first word "if" be dropped so as to say "preparation of a forest operations prescription..." and I would also recommend that subsection 14(1) should be modified by replacing "may" with "shall" so as to say, "a work schedule shall be prepared." Without a plan, how can success be measured?

Defining sustainability: Bill 171, from what I understand, is to ensure sustainability of Ontario's forests. However, the bill lacks a clear definition of what sustainability is. I would recommend that the bill adopt a definition of sustainability. As well, I would recommend that the bill adopt the proceedings from a vast collection of material compiled addressing the sustainability of Ontario's forests, including the Diversity document, the Audit of Regeneration in the Boreal Forest and, most notably, the Class Environmental Assessment for Timber Management on Crown Lands in Ontario by the Ministry of Natural Resources.

Certainly considerably more time, effort, and consultation has taken place on the construction of these documents than will be able to take place on the development of this bill.

In conclusion, I would just like to say that I trust the much-needed further development of Bill 171 will lead Ontario into the next century as a leader in sustainability. This will conclude my presentation today. Thank you, and I'll now try to answer any questions you may have.

Mr Brown: Thank you, Mr Brodeur. I believe you're the first person from the silvicultural contracting community that's been to see us. We've heard from tree seedling growers, we've heard from the large holders of FMAs, from independent loggers—virtually every section of the forest industry but yours.

Could you give the committee some idea of how many people are employed today in your particular area—not your firm, but across the board in silviculture, not just with tree planting but with the other operations that take place in the forest, tending, whatever else?

Mr Brodeur: A number of years ago, when the program was in full swing and we were planting perhaps 180 million trees a year, it seemed like the budgets were concentrating on tree planting and a lot of the other aspects of stewardship perhaps were going by the way-side, to a certain extent, at the expense of the planting. Whether that was a good thing or a bad thing at that time, I don't know.

We estimated that the employment would have been between 8,000 and 10,000 people at that time. If you do simple arithmetic, with the program virtually being cut in half, you could probably cut the employment more than in half, because what we're seeing is more people doing more jobs because they're having to do that. I would estimate the employment at this time in the range of 3,000 to 4,000 people in the province for the very seasonal work of the tree planting, site preparation, nursery work and such.

It seems like the employment has been drastically reduced. It's a hard thing to measure, because it's not a full-time job where you can go out and actually count bodies that are working somewhere. Because it's so seasonal and so transitional, it's hard to actually go out and count the number of people who are in the industry, but for the sake of argument we had estimated between 3,000 and 4,000 part-time, seasonal jobs, most of those being held by university students, I would imagine, 80% anyway.

Mr Brown: During the course of the hearings, the committee has heard a lot about regeneration etc. We know from the timber EA that they were very critical of the government and I guess of industry for the relatively low levels of planting seedlings, the most expensive way of regeneration, suggesting that we should be doing far more. That's what the EA says, not anything else.

As we look at the trusts, have you been able to do any math on the trusts to understand how much money may be going into them, whether there will be appropriate amounts of planting and tending going on from the money that will be available within those trusts? It is certainly a plus to know that there is going to be a guarantee of funds, but the second question is, are there enough funds? What's your view?

Mr Brodeur: The level of money that's going to be into the funds, ongoing transfer payments, if you will, will be somewhat equal to the amount of money that's being paid in stumpage right now. The rate is based at \$6 per cubic metre cut, which is an average of the gross stumpage rates divided by the gross amount of wood cut; they came up with an average of the \$6. From what I

understand, that is going to be an amount that'll be just deposited into the funds for the next three years, at which point it'll be reviewed to see if that is "enough" to regenerate the forest.

In terms of the actual amounts we're able to play with right now in terms of forest renewal, two points would come to mind.

One is that although it's at 1994 budget levels, which are cut in half from what we would have liked to have had and what we experienced in 1990, we do feel that that amount of money, which is estimated to be in the \$80-million to \$100-million range, will be considerably more effective. We're not going to see the money moving back and forth from government to industry, and that's going to save a fair amount.

Plus, all of a sudden industry is going to be able to be innovative in how it practises forest renewal. In the past, they used to have to budget accounts, and if the government said, "You have to plan 10 million trees," you had to plant 10 million trees. They weren't allowed to take money from the planting program and put it into tending. On areas that could get away without having to plant trees, jack pine, sand flats and such, they were forced to plant trees; otherwise they wouldn't have received their budget allocations in terms of their FMA transfer payments.

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Hopefully, we're going to see that redistribution is going to be better, with the FMAs having control and the forest managers being able to practise forestry again as opposed to being accountants and balancing the numbers.

Likewise, I would hope that after a while we're going to see an increase in the amount of money that's going to be going into the funds. The \$6 is an average, which means that half the companies are below that and half the companies above, and I would imagine that the companies that are below the \$6 average will maintain that \$6 payment after the third year; also, companies that have traditional silvicultural costs that are above \$6 a cubic metre, perhaps \$10, will all of a sudden be paying an additional \$4. So we should see the provincial money in terms of silviculture allotments go up to a certain extent after the three years, I would imagine.

It'll be interesting to see what happens in those accounts and in those areas where the \$6 isn't going to be enough to cover the silvicultural cost. I sit on the Carman committee and it was one of the questions I asked: What happens in a particular forest where it costs more than \$6 to do their forest renewal? The answer I got was, don't invest in those companies. Well, we're not investing in the companies; I believe we're investing in the forest in terms of those expenses.

Mr Brown: One of the concerns we've had is that it's relatively—well, nothing's simple, but it's more straightforward dealing with the current FMA system than it is with the various other kinds of licences that are out there in the forest. I'm referring to the crown land units, the crown management units. Have you any indication of how the funding is going to flow and how you're affected? I think most people would agree that silvi-

culture has been more successful in the FMAs than it has been on the other units.

Mr Brodeur: What I think we've seen in the past couple of years is that the crown units have really, really gone downhill in terms of their forest renewal. The FMAs seem to have been able to maintain their programs, perhaps at the expense of other programs and perhaps by allocating some of their own funds. However, it's in the crown units that we've seen a real decrease, specifically in the amount of trees that have been planted. It's gone from 60 million, 70 million, 80 million trees down to about 10 million or 15 million trees. As a result of that, I can't afford to even contract with the ministry any more. The prices are just far too low in terms of silvicultural contracts.

From what I understand in the bill, we're going to see crown land dues being allocated to silviculture as well in that they're going to be going into a trust fund. I don't believe it's in the first year, but perhaps it's in the second year and in subsequent years. I had hoped to see that the crown units are going to all of a sudden become a lot more responsible in their forest renewal programs. It's something we've advocated for a while: Let's do an FMA audit on a crown unit and see what the results have been over the last five years. It would be interesting to see what those numbers would be like compared to the FMAs. I think the FMAs have tried to maintain their programs as best they can, and certainly they had a contract with the government ensuring that as well.

Mr Hodgson: Thanks for coming in. As Mr Brown pointed out, this is a different perspective.

I think there is a general support for trust funds. It's an idea that's long overdue, and I think people welcome it. It's going to be spelled out in this bill and that will give some security about how it's done.

You mentioned the advisory committee, and you're recommending that we follow the class EA and accept the board's terms and conditions 4(a) and (b)?

Mr Brodeur: Yes.

Mr Hodgson: Okay. We've talked about that as well.

But there's one area that's just come up in the last day or two, where you support the idea of from timber to forest management. I think everybody does. Do you want to expand upon it? We've heard a couple of other people's opinions on this, but you've got a line in here: "Consideration must be given to who is the best-suited manager of the forest." Then you go on to say, "The recent class EA ruled on timber management, and I would not expect that the government would invite a new EA hearing on forest management in the near future, all things considered." How do you see that working? How do you avoid that? You say, "Consideration must be given to who is the best-suited manager of the forest." Do you want to comment on that?

Mr Brodeur: Right now in the FMAs the forests are being managed by foresters for timber management companies, and they're obviously managing the forests and their licences and such for feeding a mill, whether it be a pulp mill or a sawmill, so their best interests are situated in the bottom line of that company. That's what

their boss tells them, I'm sure. Are they looking out for the overall management of the forests?

There are some big areas out there that don't come into particular interests; maybe "interests" isn't the best word. If I'm a forest manager working for a company in northern Ontario and I know we have to make a bottom line and we've been posting losses for the last three or four years, I'm going to be making sure I concentrate all my time on managing and getting the wood into the mill for the company I work for. Perhaps my devotion to certain other areas of the forest, while I might be concerned, isn't going to be as highly prioritized as it would be with the timber. I used the example of a blueberry plantation 500 miles from any operation. Am I going to manage that resource as strongly as I'm going to manage the resource for timber? I don't know if the people working for the timber companies are best suited to manage the forests. They're certainly best suited to manage timber.

Mr Hodgson: How do they do it in other jurisdictions? You cite BC and Sweden and say BC's the Canadian model and Sweden's the international model. Are you familiar with how they do this?

Mr Brodeur: To a certain extent. I'm not sure if they're forest managers or timber managers in Mac-Blo out on Vancouver Island. I know their programs seem to be a little bit more developed than ours and they don't seem to have the budget constraints we have. Unfortunately, I'm not well versed in the jurisdictions in either British Columbia or Sweden; however, sometimes we do use those as models for comparison.

Mr Bisson: You made some comments in regard to forest prescriptions and work schedules, and I thought maybe a little bit of clarification will clear it up.

My understanding of the way it works is that you're required to put together a forest management plan, and as part of that forest management plan you have to have a work schedule that deals first of all with how you're going to harvest and then the prescription deals with how you're going replant; everything is sort of interrelated.

My understanding of sections 13 and 14 is that through this bill, because we're not just managing timber, it gives the ability to manage a number of other things. For example, what happens if somebody decides they want to go into a commercial operation in blueberries, or whatever it might be? Do you think it would be too onerous if we took your suggestion and said, "Yes, you have to do a forest prescription and you have to do a work schedule"? In some cases we may not want them because it would be much more than what we need, because timber management and blueberry patch management are much different in nature. Do you still feel we need to really close that in? It wouldn't give us the ability not to do so with other types of things we can harvest in the forest.

Mr Brodeur: As a quick comment, I think the amount of paperwork that's being put on the people I deal with on a daily basis is pretty onerous right now. They usually don't get a chance to go into the field to actually see what's going on, with the amount of paperwork they're doing.

Mr Bisson: I go into the bush with my foresters all the time.

Mr Brodeur: I certainly developed my brief in consultation with some clients I deal with in the OFIA and people along those lines, and there's concern when you look at forest management planning as opposed to timber management planning. If the companies are being forced to write forest management plans as opposed to timber management plans, the number of resources in a forest is endless, and to write plans for all of those is going to be a lot of work for the people who are dealing with them.

I don't know if I understood your question. Are you saying that the forest harvesting companies are the ones who are going to have to write it, or are you saying if someone wants to go and pick blueberries they have to write a plan for how they're going to pick blueberries?

Mr Bisson: No, what I'm saying—let's be specific. Obviously, if you're harvesting timber it's a fairly complex process. You've got to go out and cut. You're obviously going to some damage in the forest—you have to haul it out and you have to replant—so it's much more onerous in terms of what your responsibilities are because you have more ability to impact the forest. The legislation, because we're talking about a forest management plan, managing the entire ecosystem, gives us the ability to say, maybe we want a management plan and we want work schedules and prescriptions for a commercial blueberry patch operator or somebody who grows ginseng or somebody who cultivates mushrooms.

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What I'm getting at is that your point is that we should require the prescription and we should require the work schedule, no matter what. That's what you're suggesting. I'm saying, isn't that more onerous than we need to make it? For example, with blowdowns, it would mean that when there's a blowdown and MacMillan Bloedel goes in to clean it up, you may not want to do a work schedule and you may not want a prescription. Do you feel that would really box you in? I see that suggestion as being more onerous.

Mr Brodeur: I think my suggestion was saying that a timber management plan must be written—it certainly would identify the need for that—as opposed to a forestry operation. I can understand, if that's the intent of the legislation, that they need a little bit of flexibility in case they need to go in and use some of the other resources. I don't know if it's possible to put it in the legislation that a timber management plan must be written. From what I understand, it's done right now under the Crown Timber Act, if I'm not mistaken, that a timber management plan—the five-year plans and the annual work schedules—must be written before they're allowed to harvest.

Mr Wood: In your areas of support, you've indicated that the bill should have been drafted according to the terms and conditions of the EA. From information I have, Bill 171 was drafted according to the terms and conditions of the EA board that came down with its ruling. The 28-day period was there, or the 30-day period, whatever it was, and there was no appeal on the part of

the government and we accepted the terms and conditions of the EA. As a result, Bill 171 was drafted around that, with the understanding that EA also said that there's nothing stopping the government from talking about forestry and not restricting it to timber. It's been drafted around that. I just wanted to clarify that there's nothing in the draft to say we're going to try to avoid the EA decision. We've agreed to that and we're bound by it, and it's there, in our opinion.

I just wanted to get into sustainability a little bit. One of our people who came up with the Policy Framework for Sustainable Forests, Tom Clark, has suggested about 10 ways that should be included in the definition of sustainability. He's based that on the words and feelings and emotions of over 3,000 people when they went out on public hearings. I just want to know what your feeling might be on that, as you're saying you've been involved with the Bob Carman exercise. Do you want to comment on sustainability, how we should be defining it in the legislation, in the manuals? Do we need a broader definition of it, as Tom Clark has suggested in a letter to us?

Mr Brodeur: I don't see it. Maybe I'm missing it, but is it even defined in the legislation at all, the meaning of sustainability?

Mr Wood: All throughout the whole hearings, we've been trying to get—

Mr Brodeur: Come up with what sustainability is for the purpose of the act?

Mr Wood: —what the general population out there feels the definition of sustainability should be and where it should be and how it should be spelled out as we proceed to amendments and third reading. I just wanted to get your version of that.

Mr Brodeur: My definition of sustainability for forests?

Mr Wood: Yes, on crown land.

Mr Brodeur: That whatever is there right now will be there in some way or form in the future so that everybody can enjoy the same uses. Certainly it's not going to be in the same way that we enjoy them right now, for a number of reasons, but so that future generations can enjoy whatever their use is going to be of the forest, similar to the use we get out of it right now. It's a pretty broad definition, because it's hard to say what people's use for the forests is going to be in the future, but certainly so that there's some use, somehow, for somebody.

Mr Wood: The protection of the forests.

Mr Brodeur: Protection of the forests so there's going to be something there, and I think I've explained that, to a certain extent. Without sustainability there's not going to be an economy, there's not going to be a forest—there won't be much there at all.

The Vice-Chair: Thank you very much, Mr Brodeur, for appearing before the committee and sharing your views with us.

Mr Bisson: Just on another matter, I have a letter here from a Mr Grant Tunnicliffe from South Porcupine, who wanted to present his views to the committee. I'd

like to make sure that's put on the record and passed to the committee.

The Vice-Chair: Thank you. This concludes the hearings for the morning. We'll resume at 2 o'clock this afternoon.

The committee recessed from 1146 to 1402.

STRUCTURAL BOARD ASSOCIATION

The Vice-Chair: We're continuing the hearings of the standing committee on general government regarding Bill 171. I understand that the Ontario Federation of Anglers and Hunters, Peterborough section, is not here yet. You're the Ontario Structural Board Association representative, if I'm not mistaken.

Mr John Lowood: I represent the Structural Board Association, not the Ontario Structural Board Association.

The Vice-Chair: Perhaps you can clarify for us what the difference is. In any case, I appreciate that you are willing to make your presentation now rather than at 2:30, seeing that our first presenter is not here yet. I understand you want to use some visual aids, and you can certainly do that. Go right ahead.

Mr Lowood: Thank you very much, Mr Chairman, ladies and gentlemen. The Structural Board Association is actually an international association which was incorporated in 1976, a major trade association with members in Canada, the US and overseas. Interestingly enough, the reason we were originally thought of as being the Canadian Structural Board Association was that the association started in Canada and the industry started in Canada, back in 1965.

Our membership is composed of producing members ranging from BC, Quebec, Ontario, France, the US, Saskatchewan, Scotland, Minnesota, and Weyerhaeuser in Alberta. We have a fairly extensive membership. On top of that, we have a large group of what we call supporting members who are in the supplying business. A number of those are Ontario companies. In support of our group in terms of research, we have a number of research members and universities. So we like to call ourselves a full-service association, with manufacturers, suppliers and researchers.

Our mission is that we represent the oriented strand-board, or OSB, producers, who are committed to continuous quality improvement; end-user recognition of OSB as being the preferred structural panel; and to improve the performance of the industry and the members. We work very closely in doing that with codes and standards people in Canada, the US and offshore, particularly, recently, with the increase in activity offshore and the need to have North American and Canadian products recognized in that area.

We have recently formed a new partnership called the Wood Panel Bureau. It's a partnership of our association with the Canadian Particleboard Association and the Canadian Hardwood Plywood Association. Our mandate of course is to expand export markets for the three products that are manufactured by the association: OSB, MDF/particleboard, veneer and plywood. We do this by having technical bulletins, trade shows, advertising and promotion, and market studies. Of course, the government

of Ontario is also a partner in this program, along with the governments of Alberta, Quebec and the federal government, in supporting the activities of the association. That's just a recent event; it's just in the process. I believe the Ontario agreement is going to cabinet tomorrow.

Looking more at what the industry is doing, I have a few slides. What I'm trying to show here is the aspen forest which basically runs through central British Columbia, Alberta, southern Saskatchewan, touching into Minnesota and Wisconsin, and then moving up into Ontario and Quebec. That is the area where most of the OSB industry is focused today that is using poplar. The other resource the OSB industry uses, and our competitors, is the southern yellow pine and hardwoods that come out of the south. That area, of course, is our major competition in Canada for wood supply, so we have to be very sure that when we're looking at wood supply we put ourselves in as competitive a position as possible.

The other reason we need to have this competitive position is the growth of the industry. Back in 1980, we had five mills in Canada and three mills in the US. In the year 2002, we'll see the industry reaching 54 mills in total, of which 19 to 20 will be in Canada and 34 in the US. That number is changing even today. I was not aware until very recently that another mill has been proposed for Fort Frances. This was just last week. We also heard from our US friends that another mill is being proposed in Virginia, so these numbers are already out of date. The industry is growing very rapidly.

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As to the locations of the mills, you can see from the map how in Canada it follows the boreal forest and the aspen supply and, in the south, the southern yellow pine supply. The blue dots are announced mills; again, that chart was done in June and it's slightly out of date.

Total volume: We are a bilingual organization, so we have square feet and cubic metres. Basically, a billion square feet is a million cubic metres; that's a quick and dirty conversion. What that shows is that the total industry volume by the year 2002 will be getting close to either 18 million cubic metres or 18 billion square feet. That's a significant growth, and that growth of course is coming from Canada, the US and offshore. Again it's a question of making sure that the Canadian operations are competitive, particularly the Ontario operations.

The three Ontario members of SBA are Grant, Malette and Weldwood at this time. The other two companies that have announced mills, Jager and Tolco, have also indicated to us that they'll be joining our association, and we believe the new mill at Fort Frances will as well.

Just one last thing on the association. We have a major research program, which I indicated earlier. These are some of the projects we're jointly undertaking with—I'm having a little trouble with this overhead. This program is a market-driven program managed by the association, undertaken by Forintek Canada Corp, the Alberta Research Council, and we just recently awarded a contract to the University of Toronto for some work it's undertaking. Part of their project is at number 10 at the bottom of the list. We want to use as many of the

resources as we can to get the best possible results.

That is a little bit on the association. There is certainly a lot more information that can be provided, if it's the desire of the committee.

I'd like to look now at the reason we're here, the new crown forest act. I've seen submissions from one or two of the other groups, and when we started thinking about our submission we really thought that what we should do is first congratulate the writers of the legislation in putting together a pretty concise piece of material. There are some things that perhaps could be modified or changed, and we'll talk about those this afternoon, but all in all, it certainly covers the matter very clearly, and I believe we can count on the people writing the regulations and the manuals and so on to fill in the gaps and make it a workable document.

There are a few things we find to be a bit of a concern, and I'm sure they can be addressed.

There tends to be a lot of subjective interpretation, and that can of course be fixed by the regulations or the manuals.

We were looking in the act for some requirement that there would be an ongoing consultative approach and, unless we're missing something, we didn't find that. We think that could be added to the act in some way.

It does not appear on the surface to encourage partnerships and. Again, that's an area that needs to be looked at, in our opinion.

It does give pretty wide discretionary power to the minister and his or her designees. I wanted to point out in saying that that within the Ministry of Natural Resources and the general contraction of government services and staffing and the programs being provided to people to take early retirement, what we're seeing—I've been told, and I'm aware of it—that a lot of people who can use discretionary power properly because they have experience and background and knowledge of the industry and the forest and the resource in the communities are disappearing from the ministry. We think that's unfortunate. We don't know how you address that, but that's something the ministry at least has to address in some shape. Maybe that comes back more to the partnership role, but we believe there's some need there.

One of the questions that has come up is definitions. "Sustainability" is a word we have wrestled with. I've wrestled with it with the federal government in some of its work, I've wrestled with it in some of the other provinces, and I guess we're going to wrestle with it in this particular piece of legislation. This is a definition we use in our group, very similar to the new CSA definition that is being promoted for the sustainable forest management standard: "Planning and implementation of activities to provide for the continuing harvesting of resources to meet specified objectives and provide ongoing economic, social and community benefits to society." We did not include the word "environmental" because if we provide ongoing economic, social and community values, the environmental side will look after itself. We really believe that.

Another area we wanted to comment on is the forest

resource licences. First off, we're very pleased that this has been included in the act. The OSB industry, by its very nature, is going to be using species that haven't in the past been used. All the work that has been done, the various studies and so on and so forth, see the OSB or the poplar and birch resource being promoted as the resource for the future for Ontario's forests. Yet we're not going to have, as I see it, very many FMAs that will be strictly limited to poplar and under our control as an industry, so we are pleased with the changes in the act that allow for this type of licence.

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We have some concerns, however, and we're already hearing about these, that some of the major FMA holders are saying: "How can we possibly cut the poplar volume that new mill requires? We're not going to be cutting in that area, or we don't have that need for the softwood." There's going to have to be a mechanism—and perhaps it will be in the regulations or in the manuals, but there has to be a mechanism—to guide those FMA holders in fulfilling their obligations to the new mills that are coming into their area. That's not going to be an easy situation. We know that. We already know that from what's happening with some existing mills. So that one has to be dealt with with some discretion.

We support the silvicultural trust fund. I have been involved on the advisory committee with Bob Carman. I think it's a very, very positive move, and it'll certainly help to guarantee the sustainability of the forest. What we do not like, though, is the residual value approach for the costing of the resource. We recognize that the cost of the resource should be tied to the market, but we're not happy with the approach of the residual value because we think it would be very difficult and rather unfair in how it can be implemented. We've got mills of different ages, different log yields per hectare, different wood recovery, and we've got marketing changes. We as an association are prepared to talk about that, but we're not prepared to accept it in its current format.

The last thing I wanted to raise was the part that covers forest resource processing facilities. We believe there needs to be a little more flexibility in that area. Mills are going to be changing on a continual basis. They're going to be upgrading, they're going to try new tricks in the mill, and we need to be able to allow them to do that without having a bureaucratic or an authoritative approach to making those changes.

Ladies and gentlemen, that's what I wanted to say this afternoon. Thank you very much.

Mr Runciman: I'd like to ask you about the ministerial discretion and your concerns specifically about that. You made reference to the fact that people who have significant knowledge of the industry are leaving the ministry and there doesn't seem to be, I gather, an effort to replace these individuals, which would perhaps give you more confidence in ministerial discretion and some of the decisions that are taken. What is really happening there, from your perspective, in terms of these people leaving the ministry and not being replaced by people of similar qualifications?

Mr Lowood: We're finding that because of the early

retirement package, people who have worked in an area and are very familiar with the area and have taken a senior management role in the management of the forest are leaving. We're concerned that with the people who will move up to replace them and move into the field—I guess everybody will eventually move up to fill the available positions—we'll find a lot of younger people who have not had the background and the experience in the industry who will be required to make decisions or have dealings with the industry people on a day-to-day basis, and that could lead to conflict. And the word "may" in those sections of the legislation does give them the opportunity for a fairly wide discretionary power.

Mr Runciman: That may happen, but it's increasingly likely, with this government and its use of consultants, that they will simply rehire them as consultants at three times the salary. That may assuage your concern. Have you conveyed those kinds of concerns to the ministry officials?

Mr Lowood: We have talked to the ministry about that. We in fact are going to be making a joint presentation to the ministry, along with the other two associations, on that. I've talked to the minister and we've talked to Bob Carman and his people about it.

Mr Runciman: What's spurring this rapid growth in the industry, just the turnaround in the economy?

Mr Lowood: There's actually a couple of things, primarily the west coast restriction on logging in the US, and the upcoming restriction on logging of the old-growth forest in British Columbia is closing the plywood mills now. The plywood industry has lost 4 million cubic metres in the last eight years. On top of that, we're seeing that there's a much wider acceptance of the product in non-traditional uses. Now we've got engineering design values, so engineers can start—there's an increase in market plus an increase in the shortage of plywood.

Mr Runciman: You mentioned your organization being incorporated in 1976, but you haven't been consulted by governments, I gather, plural. You haven't been involved in consultative processes. Or is that simply with this one piece of legislation?

Mr Lowood: It's been primarily in Ontario's situation. It really didn't get going until Bud Wildman spoke to all of us in December 1992. That was the start of the process, as far as we were concerned.

Mr Bisson: Thank you for your presentation and giving us some very helpful information with regard to the OSB industry. You make a point in your presentation that one of the things you support in the legislation is the ability of the government to be able to direct wood toward OSB mills. As you said in your presentation, that's very problematic in some ways, that if you happen to be the FMA holder and you're not in the OSB business, you may not like that.

Let me put to you how I see it, and tell me if you'd agree. Would it be better to do that, rather than just in the legislation and saying, "You shall do A, B, C, D," by trying to leave it to market conditions and negotiations within the private sector, rather than having government impose?

Mr Lowood: I think there needs to be some method or arbitration raised in the legislation and then expanded somewhat in the regulations or manuals that will accompany this.

Mr Bisson: So enable the negotiations to happen through the legislation, but if negotiations fail, have some sort of mechanism like arbitration at the end, is what you'd say.

Mr Lowood: Right.

Mr Wood: Thank you for the presentation. It's nice to see that there's no doubt in your mind of what the definition of "sustainability" should be, and I see you've put it up on the screen.

I just want to comment a little on the discussion Mr Runciman and you had. Back in the early 1960s the retirement age was 70. They brought it down to 68 and then down to 65, then down to 62, 60, and when we reorganized the Spruce Falls situation we had people going out of there at 50 years old in order to make room for younger people who had a family and were trying to survive. Other people were saying, "Our family's grown up, my house is paid for," and they'd make room. So this has happened in the private sector, it's happened in government, and it's a process that has taken place over the last 30 years. We see a bigger effect of it during a recession as jobs are scarce. The process is there. Hopefully, these people you consider to be inexperienced have gained the experience and are going to be able to do the job they're expected to do.

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When you're talking about the market, you're saying you don't mind, as the price of the product increases, paying a fair share to the government. It's very similar to what we have in income tax now: The more you make, the more you pay to the government, either at the provincial level or the federal level. The same thing would apply to industry. As the price of the product goes up, a certain portion of that would come back to the crown because the government is the landlord of the forests.

Mr Lowood: We have that system now, to some extent. It could be tidied up and perhaps made to operate better for both sides. But when we involve the residual value, which involves into it the factor of the cost of production, that's when we become very nervous.

Mr Wood: You're saying we should have further discussion on that?

Mr Lowood: Yes. Hopefully, the Carman process will resolve that. And just a point on that: I don't think we're all getting the same information, because I understand some of the new mills have been provided with some additional documentation we were not provided with. That's something I have to talk to Carman about when he gets back.

Mr Wood: I understand Carman hasn't gone anywhere. He's very close to getting ink on paper, which will be announced in a press conference very shortly. He's around.

Mr Lowood: Good. I look forward to it.

Mr Brown: Thank you for coming. You have raised an issue regarding residual value. Frankly, I'm surprised

somebody else hasn't raised it before you came and did it, but I'm really happy you did. We've had some problems trying to determine whether residual value was a good idea or whether it wasn't a good idea, but most people are saying it isn't a good idea. But you're bringing a new spin to this, that it's really based on somebody else's decision about what your costs might be—in other words, what the baseline is—before we start to graduate this tax. Just so we don't confuse the parliamentary assistant, I suspect your members pay corporate tax.

Mr Lowood: Yes, we do.

Mr Brown: At least that's the plan, in most years: They hope to be able to pay.

Mr Lowood: They haven't on a regular basis, but certainly when they're able to, they do.

Mr Brown: Could you suggest to us an approach that would be more appropriate? I think we all believe that somehow the people who own the forests have some right, in a good market, to receive a little more money than they might in a bad market. What approach would you favour?

Mr Lowood: I think we feel reasonably comfortable with the existing system. It needs to be modified to reflect the various markets a little, because OSB is lumped in with pulp, and one's on one cycle and one's on the other cycle; that sort of thing needs to be separated. We would say, and my members have said this to Bob Carman, "What's wrong with the existing system?" There are a few things that are wrong, but nothing serious, so why don't we just fix the existing system?

Mr Brown: So if we go back and have a look at the market mechanisms that presently exist within that system, we may be able to come up with an answer that's happier than this kind of cost-plus system the government is doing. In my experience, cost-plus just means it costs everybody more.

Mr Lowood: Alberta has this system, and Alberta is having a lot of difficulty with it.

Mr Brown: Could you provide us with some documentation on that, seeing as you represent those people in Alberta?

Mr Lowood: We can do that, yes.

The Vice-Chair: If you'd do that and send it to the clerk, he will distribute it to all the members of the committee.

Mr Lowood: Certainly. I'd be pleased to.

The Vice-Chair: Thank you very much for appearing before the committee and sharing your views with us.

JAGDISH NAUTIYAL

The Vice-Chair: We invite Professor Nautiyal from the faculty of forestry at the University of Toronto to appear now. You've been allocated 30 minutes. Members of the committee always like to ask questions and receive answers at the end, so if you'd like to leave some time, we'd appreciate that.

Mr Jagdish Nautiyal: Thank you very much, Mr Chair. I don't think I will be taking all the 30 minutes; maybe a small fraction of it.

The point I want to make is that it's a wonderful thing

to be wanting to manage the forests as a whole on a sustainable basis. Foresters really have been doing it, as far as timber is concerned, for years and years. But right now, when we are making a change that instead of looking at timber alone, we are wanting to look at the forest as a whole, it is necessary that first of all we have an act such as this which permits that change, but there is more than this that is necessary in order that we will be able to actually practise sustainable forestry. Some of this is the knowledge gap that exists, about which I want to bring the matter to your attention.

If the forest as a whole is to be managed in a sustainable manner, we ought to know what kind of outputs will be available from it over the years—because the forest takes long years for producing things—by putting certain amounts of inputs, and that kind of information is generally lacking. Good foresters, good resource managers, have some idea about what those things are, but only in patches and mostly about timber alone. What we need to know is a comprehensive idea and general knowledge about different species, different types of forest ecosystems, as to how much input will produce how much output in different years.

If this basic information is not known, it is very difficult to actually bring into practice sustainable management of any resource. My submission is that the act provide for this very clearly. In fact, the bill should direct the provincial government to take action which will initiate appropriate research to fill this information gap, and this kind of research perhaps will be done at research institutes or universities throughout the province.

This is only a part of the knowledge gap that exists, but unless we start on this now, right in the beginning, I do not think we can actually practise it. Thank you very much.

Mr Bisson: You are saying that if we don't start this in the beginning, we're not going to be able to practise it?

Mr Nautiyal: We're not going to be able to practise it soon. It will take time before this information is available. We'll be groping in the dark. We'll be doing the best we can, but it will not be the right or the appropriate thing. Trying to do something, with the best of intentions, in the dark, when we don't know what begets what is one thing; the other is knowing that if I turn this switch on, that light will go on. That's a different thing. I'm saying we don't have the information, so we should start that now.

Mr Bisson: You see, one of the things the committee has been hearing from some presenters—there's a group of presenters who would prefer that the ministry spell out very clearly in the legislation exactly what's prescribed it comes to sustainable forestry practices. To do so, some would argue, is that it would fix us in time and wouldn't allow us to move with the sciences. You say it's better to make it enabling legislation and leave that to the manuals and regulations? Is that what you're telling me?

Mr Nautiyal: If I understand you right, I am not suggesting that we first have all problems sorted out and then go into it. It is impossible, it is impractical. We have to move with whatever information we have right now.

But we must be very clear about the kind of information gap that exists and we should take steps now to fill that information gap, so that as the years go by we become more and more enlightened and we are able to take better decisions.

Mr Bisson: Just to finish the point, you're saying that the approach we've taken by not trying to enshrine everything in the legislation but making it enabling is the right way to go.

Mr Nautiyal: I would say so.

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Mr Wood: We had a presentation made by one of the people from IWA saying that at one point in time, as you're saying, nature would look after things to a certain point, that you'd cut a tree and God would plant another one. But he went on to make the statement that He's falling a little bit behind and He needs some help.

Mr Nautiyal: Who, God?

Mr Wood: The forests, the trees, need some help from man.

I just want to get a comment from you. The timber act that is there right now was written 42 years ago, in 1952. What would your feeling be, that we leave that the way it is? Or should we proceed on the basis we are right now, trying to deal with it as a forest and protecting some of the jobs out there and creating new jobs and trying to sustain into the future?

Mr Nautiyal: I think we should go ahead. We cannot go back in time, first of all. Also, we cannot hold the clock. We cannot freeze anything in time. We have to keep on moving. As to these problems of maintaining the jobs and maintaining the environment, obviously there are conflicts in them; sometimes they don't go in the same direction. But hard decisions have to be taken all the time because we have to balance between these two. Overall sustainability means a balance. It cannot be just in one direction. We cannot either just, let's say, produce maximum timber and that's it and we don't care about anything else, or that we protect everything and we don't want any timber or any pulp. That's also impossible. We've got to find a balance, so we must keep on moving.

Mr Wood: If I understand, you're saying that by reworking the legislation, the amendments brought forward, the regulations, the manuals, we could put in something that's got some teeth in it for the future.

Mr Nautiyal: That's right. We already have something with us at the moment, as far as timber is concerned, and from whatever I have seen so far, that's the approach that's been taken by the government. Essentially, we have certain things, more developed in the case of timber than in the case of other products, and as we go, we go on improving them to the extent we can.

Mr Brown: Thank you for appearing. I think you're bringing something to this debate that we heard in Thunder Bay from Lakehead University. That was the requirement that there be more research, both pure and applied, to forests and the forest ecosystems, and to be spending more time really trying to understand what's happening out there. I don't suspect in human endeavour we will ever completely understand what's going on out

there, but certainly the state of science needs to be improved and perhaps the province should be spending a little bit more money in that area in terms of research grants or whatever.

The particular suggestion that was made by Lakehead University to us was that a portion of the forestry futures fund included in this legislation should be set aside to assist universities and others to do research. Do you have some views on that?

Mr Nautiyal: Definitely. I would support that kind of action. In the case of research and education which the universities are involved in, usually a sustained effort is needed for a number of years before any meaningful results can be obtained. It is not something where you just say, okay, open the door and everything comes up. Answers are not all available on the shelf where you can just go and buy them. Sustained effort for long periods is necessary before we have a fairly large repertoire of different kinds of solutions, and then, as problems appear, we can pull them from the shelf, if we have been working in the past. Because of this long time period involved in producing research results, for one, and secondly, the uncertainty about what results we'll get, it is necessary that funds be set aside on a sustained basis so that things can be done. So I would support that, yes.

Mr Brown: You were here, I think, to hear the presentation that just came before us. I believe you mentioned in your brief that the forest, if you do nothing, given time will regenerate to something.

Mr Nautiyal: Yes, something will happen.

Mr Brown: What we're seeing here is a utilization of a wood species that perhaps foresters would have considered weeds not too long ago. They are taking an opportunity to make a product and there's demand in the market for this product, yet who could have predicted 40 years ago that we would have a business expanding on the basis of aspen species? I don't think there would be many who would have predicted that.

This whole question of sustainability comes back to that. How are we to predict 70 years from now what will be marketable, if we look at sustainability from the jobs and communities kind of view, and therefore what we should be doing in the forest today?

Mr Nautiyal: Let's face it. We'll never know what is going to happen in the future. Anybody who says they have an idea, "This is what is going to happen," I think is absolutely wrong. But that is nothing new to us, and by "us" I mean to human beings. We all have lived all these years with this total uncertainty and yet we have kept on going. The main thing is, with whatever information we have, the best information, make the best judgement we can at the time, and then face the thing as it comes. We never burn all of our bridges behind us, there are always some options left, and if we have taken the wrong action, hopefully we can reverse the course. We may not be able to get 100% back of whatever we have lost in some wrong decisions, but hopefully we can salvage much of it if we are all the time alert. That's the way I would go.

Mr Brown: When I get philosophical, I think of what the forester 70 years ago might be saying today. He'd

maybe say, "I did produce a sustainable forest."

Mr Nautiyal: Actually, the good forester of that time would be quite happy to see the forests of today, I'm quite sure. In some way, yes, it is being sustained. It is never exactly the same. Sustainability, in my opinion, doesn't mean maintaining the status quo for ever. I don't think anybody wants it or that it is possible even if we wanted it.

The question is, within our overall goals, can we move in a direction where we don't put ourselves in such a situation where we feel sorry about it? That's all there is, I think, that has to be kept in mind.

Mr Gilles E. Morin (Carleton East): This morning we had a witness who talked about Sweden as an example we should follow. You are a professor of forestry. Sweden is approximately the same area as Ontario, 412,000 square miles, the same population, the diversity of the population is about the same. What do they do there that we don't do here and that we should do?

Mr Nautiyal: One of the things that happens in Sweden is that the government subsidizes many of the activities in the forests if it deems those are in the interests of maintaining the forests in the long run. That situation in some way is different and in some other ways is quite like here. There, the forests are not owned by the government to the extent they are owned here. In Ontario, almost all the forest, 90%, 95% is owned by the government. That is not the case in Sweden. So the action the government has to take there is such as will encourage the private entrepreneurs to do what the government thinks ought to be done, so subsidies form a major part of what it is.

Then, Sweden has a different way of looking at things. I think the attitude of Sweden towards life is a bit different from that of Canada. Canada is a young country; Sweden is not. Canada keeps on thinking in terms of growth, in terms of expansion, whereas Sweden, I believe, in a philosophical sense, is more attuned to what sustainability is all about. They are willing to accept that, yes, there may be things where the same sort of thing more or less remains for quite a long time, that we don't go on growing exponentially. You know, anybody living in Toronto for the last 25 years can't recognize this city, the way it has grown. That kind of thing doesn't happen in Sweden. It is not expected. They have a different way of looking at it.

So comparison between Sweden and Canada may not necessarily be very meaningful. It may not take us anywhere. We have to find solutions for our own problems, which are quite a bit different. They are unique.

Mr Morin: We've heard—since Monday, when I've been on the committee, anyway—all kinds of negative comments that we should scrap the bill and start all over again, go back to the drawing board. You've had a chance to read the legislation. Do you feel the same way?

Mr Nautiyal: No, I don't. All my life I've run into people who say, "First find out what is the best solution, then I'll take the first step." If I did that, I would never be out of my house. I do not know anything for certain.

I've never known it, and I don't think I'll ever know. I make my best guess. I brought an umbrella this morning, not a raincoat, and yes, I got a little bit wet, but I'm still okay. It's that kind of attitude that we have to have towards life, and it's no different in individual personal life than it is in public life.

Mr Morin: Why is it that 95% of the witnesses who appeared before us all came out with negative comments? Are they wrong, or who is right?

Mr Nautiyal: I'm not sure if that is negative. They might have had their reservations, because everybody's afraid of moving in a new direction when we do not know. We all have fears. I've said I do this, but that doesn't mean I'm not cautious about the future. I do not want to take an action where I may really get into trouble. They just want to make sure, I believe, that we are taking the appropriate steps. That's my reading of it.

The Vice-Chair: Thank you very much. We certainly appreciated your presence before the committee, Professor, and you obviously encouraged quite a bit of a debate.

Mr Nautiyal: Thank you very much.

Mr George Mammoliti (Yorkview): Mr Chair, on a point of order: I'd just like to know where the statistic 95% came from.

The Vice-Chair: That's clearly not a point of order. I'm not quite sure what you're referring to. That was a thing mentioned by Mr Morin. You might get that clarification outside the meeting of the committee.

I'm not sure whether the next presenter is here. Mr Hilsinger, of Algoma Country Adventures? Mr Quinney? No? Nobody here yet? Then we'll have to take an adjournment until 3:30, as Mr Hilsinger was scheduled for 3:30 and we owe it to him as a matter of courtesy to at least convene for 3:30. This committee stands adjourned until 3:30.

The committee recessed from 1453 to 1505.

ONTARIO FEDERATION OF ANGLERS AND HUNTERS

The Vice-Chair: Sorry for the confusion. We were going to recess until 3:30, but apparently there was some confusion in terms of the scheduling. I'm sorry this happened. I am pleased to say that Terry Quinney, whom we had scheduled for 2—but I understand that according to your information you were only to come at 3:30 so you're actually early. Nevertheless, we do have that time slot available, and in order to use the time effectively, I'm glad you have agreed to make your presentation now on behalf of the Ontario Federation of Anglers and Hunters.

Mr Terry Quinney: Thank you, Mr Chairman. I hope the committee members have been provided with a copy of my remarks on behalf of the Ontario Federation of Anglers and Hunters this afternoon. I will be brief, in fact very brief, and I would invite you to follow along with me in the two pages of remarks I have.

Let me begin by thanking the committee for the opportunity for the Ontario Federation of Anglers and Hunters to appear before you in order to comment on Bill 171. My organization agrees with the intent of this legislation but believes that certain changes are necessary

before we would recommend final passage. If I may, I will divide my comments into two parts. First they will be of a general nature for a few moments, and then I will make specific comments on certain sections of the bill itself.

In the way of general comments, clearly Ontario's crown forests supply multiple benefits and products simultaneously. Some of these products include things like wood but also wildlife habitat, recreational activities such as hunting and fishing, tourism etc. The point here is that all of those benefits and products I just identified are forest-cover-dependent. Furthermore, these products, as you well know, are worth billions of dollars annually to the provincial economy. For example, direct expenditures for recreational fishing and hunting alone in this province exceed \$3 billion annually—that's according to provincial and federal economic surveys—and a great deal of this recreational fishing and hunting is, of course, forest-based.

If the intent of Bill 171 is to assist in ensuring a sustainable, continuous and predictable supply of these simultaneous multiple benefits and products, we are certainly in agreement with the intent of the bill.

Let us not forget that the activities of forest management being addressed in this legislation include things like tree harvesting, renewal, tending and protection, and access. All of these activities alter forest cover, manipulate forest cover.

In our view, the single greatest element which is lacking in this legislation but which, if present, would ensure the sustainability of our crown forests and simultaneously supply multiple benefits and products—that missing element would be a clear, explicit and unambiguous statement that other forest-cover-dependent values be integrated, along with wood supply values, in forest management decisions. That would be the single most important change we would recommend to the legislation in front of you.

"Having regard for" or "concern for" forest-cover-dependent values such as wildlife habitat and recreational values, having regard for those types of products and benefits, yet on the other hand having explicit quantifiable objectives and strategies for wood supply—we believe that approach, currently reflected in the legislation, is not going to achieve sustainability, will not guarantee that continuous supply of multiple benefits and products from our forests. What we need is legislation that will entrench clear objectives not only for wood supply—there should be clear objectives for wood supply—but, alongside those wood supply objectives, clear objectives for other forest-cover-dependent values like wildlife habitat, like recreational activities.

If I may just conclude our general comments on the bill, we would request that the purpose of the act be rewritten to incorporate what I have just said and that, similarly, an explicit definition of sustainability be included.

By way of specific comments, and I will do this in the order they appear in the act, we would offer some specific comments beginning with clause 7(2)(b). We are requesting that clause 7(2)(b) be reworded, and our

suggested wording would be to the effect that:

"Forest management objectives and strategies will include non-timber values which are forest-cover-dependent, such as wildlife habitat and recreational activities, for example, hunting and fishing."

Our rationale behind this is that the Forest Management Planning Manual that has been identified in the act is going to play an extremely important role, obviously, in accomplishing the goals of the bill. We believe it's crucial that there be both explicit objectives in each forest management plan throughout the province for non-timber values, alongside wood supply objectives, and that forest-based hunting and fishing be explicitly included as recreational values and activities.

I apologize for the typo that follows, in the next paragraph in my submission. My next comments deal with section 11, not section 2, as I have provided in our written submission.

You will know that section 11 of the proposed legislation begins by stating, "If authorized by the regulations, a person may appeal a decision by the minister..." The Ontario Federation of Anglers and Hunters is recommending a rewording of that section, rewording that would make an appeal mechanism obligatory. We're recommending wording to the effect: "As authorized by the regulations, a person may appeal a decision by the minister to approve a forest management plan or to amend a forest management plan that the minister previously approved."

Our rationale behind that suggested rewording is that the present wording of the act doesn't permit an automatic right of appeal or its equivalent, and we believe very strongly that there should be a right of appeal.

In addition, we also strongly recommend that there be explicit statements that this Bill 171 will be prescribed under the Environmental Bill of Rights and that all of the conditions handed down in the recent timber environmental assessment decision be met by Bill 171.

I would now draw your attention to section 20. Currently, section 20 states, "The minister may enter into agreements with first nations for the joint exercise of any authority of the minister under this part."

The Ontario Federation of Anglers and Hunters recommends that this section be omitted, and our rationale is as follows. We've got serious problems with this section. Clearly, there are significant powers which could be exercised jointly. We believe that the loosening or tightening of standards otherwise applied uniformly across the province under a joint agreement could have extremely negative ramifications. Such agreements could create a checkerboard application of standards in the province based on political or other boundaries which wildlife, for example, do not respect.

If our rationale for omitting this section is rejected and such a section must be included, we strongly believe that it must be broadened to include conservation organizations like the Ontario Federation of Anglers and Hunters and must not be restricted to just first nations.

I have briefly two more sections to offer comments on, and then my specific remarks will be concluded.

I would draw your attention to section 62. Similar to section 20, we have reservations with this section also, for similar reasons to those I've just given in my previous rationale. As with section 20, section 62 is clouding the lines of responsibilities for decisions, and that adds to our concerns that there will be a checkerboard of standards for forestry practices across the province. Different board practices could spring up across the province. In the absence of further details concerning the makeup and operation or operations of these boards, we recommend that this section be omitted, but should our recommendation here not be accepted, we would request that such boards include Ontario Federation of Anglers and Hunters representation.

Finally, section 66 refers, among other things, to the proposed Forest Management Planning Manual. We wish to make a comment specifically with reference to the August 1 draft of this year, more specifically section 4.3.1 in the Forest Management Planning Manual, titled "Forest Sustainability Determination." I would refer the committee to page 150 of that draft manual, specifically lines 3 to 5 where we believe there's quite a serious typographical error. As a result, we have taken the liberty of recommending some rewording. We believe lines 3 to 5 on page 150 of that manual should read:

"A forest management plan will contain both timber management related objectives and objectives for non-timber values that can be achieved through the manipulation of forest cover."

1520

Our rationale is simply that this is not only an important manual in achieving the goals of the act, but this is an extremely important section of the manual. In our view, as I previously stated, clear objectives for non-timber values, such as habitat for the featured species we have in this province, like moose and pine marten in the boreal forest and white-tailed deer and the pileated woodpecker in the Great Lakes/St Lawrence forest, plus clear objectives for forest-based recreational activities like hunting and fishing, are essential towards ensuring forest sustainability and the continued supply of multiple benefits and products from our crown land forests.

That, ladies and gentlemen, is the extent of the remarks on the act by the Ontario Federation of Anglers and Hunters.

Mr Morin: You've asked that the legislation be a little more explicit in the definition of "sustainability." Would you give us a definition of what the federation thinks sustainability is?

Mr Quinney: I would be pleased to attempt to verbally give you some elements that would need to be captured in such a definition. At a slightly later date, we'd be happy to provide something in writing, if you so desire.

From our perspective, a definition of sustainability must ensure that certain elements that are now present in the forest landscape—let's go north, let's go to the boreal forest—will always be on that landscape, no matter what forest management activities occur. What might some of those elements be? They might be as simple as maintain-

ing moose or pine marten for ever on the landscape, and there are ways that managers, whether it be forest managers or wildlife managers, can accomplish that.

In the same regard, another essential element of forest sustainability, as far as we're concerned, would be to ensure in perpetuity that the recreational opportunities of hunting and fishing are there for ever.

Mr Hodgson: Thank you very much for coming in from Peterborough today. I found your presentation interesting.

You've mentioned a couple of things in detail, section 20. Would that not be covered if the province had a uniform conservation policy in terms of wildlife? I envision that section to be in terms of timber arrangements with the crown to supply some of the native sawmills where they don't have tenure right now, or a crown unit or they're not the first licence holder on an FMA. You've interpreted that to mean management of the whole area, so you're worried about different conservation policies being enforced across the province where species don't relate to travel. Is that correct?

Mr Quinney: Yes, that's correct. It's our understanding that the intent of this act, and we agree with that, is that the time has arrived in this province for all of us to move from simply managing the forest for timber and wood-related values to other values as well. We agree with that intent, but given that intent, we interpreted section 20 as including joint exercise of authority for all forest-management-related activities. In other words, they would not be restricted to just timber activities, they could in fact involve fish and wildlife, and we've got real concerns there.

Mr Hodgson: You've probably been following the hearings. We were up in northern Ontario for two weeks and it was suggested by some people that other users of the forest and the timber would have to pay for it outside of what's in the provincial interest, of a buffer zone around lakes to protect the Ontario water quality and the fish habitat, and that if you wanted more buffer areas or tree cover areas, the lumber interests or the pulp and paper wouldn't have to pay for that in their area charges but it would be picked up in other charges similar to the management area charges that we're presently paying, docking licences. Do you have any comments on that? Have you ever heard that before?

Mr Quinney: If the comment is that only crown land recreationists should be paying a fee for use of a land base that is jointly owned by all of us, we would vociferously disagree. What we are trying to attempt to convey at this point in time, and have for several years now, is that multiple interests can share the land base. There are not only technical methods to accomplish that sharing of the land base and producing multiple benefits, but there are socially acceptable ways of accomplishing that as well.

Mr Wood: Thank you for the comments. You're saying you support Bill 171, with some amendments. In our opinion, the drafting of Bill 171 covers the conditions of the timber EA that was handed down, and we're bound by it; that local committees, the community forest groups as they're named right now, would be involved in this.

We feel that particular area is covered.

Mr Quinney: We appreciate that reassurance.

Mr Wood: Your membership covers a large area, and I know some of them are involved in local committees in the Kapuskasing and Timmins area and have been quite active in advising, as we're proceeding right now, on community forest and one thing or another.

Another area I want to cover is that you're saying section 20 should be eliminated. In the area of north-eastern Ontario which I represent, there are a number of agreements in place right now; Lecours sawmill, for example, with the union, that 50% of the workforce in the sawmill will be of native population. This is to try to eliminate the massive unemployment, because in some of the areas 90% or 95% are unemployed. These agreements are there. In New Post there are agreements worked out for tree planting and harvesting. The intention is that, if possible, the resources should be used to create employment and allow the native population to be involved, and it has been done over the years. I'm a little concerned when you're saying it should be omitted, although you clarified a little further, with Chris, what you meant. But in terms of timber and the forest, they have been involved for a number of years with agreements and have been very satisfactory. It's continued in Bill 171, saying there are partnerships that can be worked out.

Mr Quinney: I think that would help with our understanding of the intent of that section. We had some concerns about—how shall I say it?—ultimate accountability. If the minister should transfer ultimate authority to an agency other than the crown, we of course would ask who is accountable. But I think you have helped clarify that.

The Vice-Chair: Thank you very much for appearing before the committee. Please accept our apologies again for the confusion in terms of the timing, but we are glad we could accommodate you anyway.

1530

GARY BULL

The Vice-Chair: The next presenter on the agenda, Mr Hilsinger, has agreed to make his presentation a little later, because we had another mixup. Professor Bull, of the University of Toronto, was originally scheduled to appear; he actually has come and would like to speak to the committee, and I'm sure the committee would like to hear from him. Please introduce yourself and your function within the university, and if possible perhaps we can keep it to a bit less than 30 minutes altogether with questions and answers so we can get to Mr Hilsinger as well and stay somewhat within the time lines of the committee.

Mr Gary Bull: Thank you. I'm happy to appear before you. I am not a professor at the University of Toronto. I am affiliated with the University of Toronto. I act as an independent consultant particularly doing a lot of socioeconomic studies in Ontario at the moment and other parts of Canada as well. My background, though, is in forestry and economics primarily.

I will start, unlike Terry Quinney before me, and look at specifics within the legislation, two pieces, section 7

and section 12, and then I will go through some more general comments. In order to stay within the time line I will keep my comments brief and eliminate portions of my prepared text, which I can hand on to one of your assistants.

The first section I'd like to comment on is clauses 7(2)(a) and (b). I am in agreement with Dr Quinney that this section of the act should be rewritten. The way it currently reads sounds suspiciously like another timber management planning process, since only due regard will be paid to anything other than timber, in my opinion. As a consultant who is actively involved in preparation of plans in the social, cultural and economic field, I am convinced that much more information could be included in the forest management plan than the current timber management planning process allows or the current draft document of the Forest Management Planning Manual permits; I'm referring to the August draft.

My suggestion is that it should be changed to read something like this, starting at subsection (2), to: "describe the forest management objectives and strategies for forest, water, soil and air applicable to each management unit. This will include a consideration and assessment of the social, economic and cultural values attached with each objective and strategy." I see no reason, as a consultant, why this can't be done. Even though it sounds ambitious, I still think it can be accomplished within a limited time frame.

The second section of the act I would like to refer to is section 12, and my concern with this section is two-fold. This is to do with the local citizens' committees. First, it does not clarify who will choose the local citizens' committee if indeed it is even created, and it does not give sufficient decision-making authority to the committee itself. In my experience with two Ontario communities this year, I have seen them reject the OMNR's citizens' committees and in their place create their own. The reasons for doing so were straightforward.

First of all, in many cases the MNR, due to increasing budgetary cutbacks, no longer has staff residing in those communities. This has meant a significant loss in contact with important community leaders.

Second, the communities want to define their own futures without provincial or federal government interference. Recognizing that the debt crisis in this country means less money available for creating employment and economic development, they want more control of the natural resource planning process that will determine their future.

Third, decentralized decision-making is here to stay, and this section of the bill should reflect the willingness of the minister to accept, even embrace, this change. This means the OMNR does not get to necessarily choose the committee or dictate the process by which the decisions are made. Instead, they sit at the table giving advice and direction where necessary. The attitude of the OMNR official should be, "How can I be of help in solving your problems?"

I suggest there are already models available in Canada that the OMNR could follow. The first is with the federal government program under industry adjustment services

of Human Resources Development Canada. I have worked with these people and I am very impressed with how they have worked with communities already in Ontario. Second, there are models within Parks Canada with how they go about setting and designing national parks within Canada, and they have a very different process than the one I see coming out of this legislation.

I could take you to many other parts of the world, from the Philippines to New Zealand to India to Germany, and illustrate fundamental changes that are taking place in forest-based communities. All of them are following a similar citizen committee approach to planning. My concern is that the way section 12 is written at the moment does not capture that change we've seen in other jurisdictions.

I would like to make, finally, some brief comments on the definition question. I will ignore what I've written on forest ecosystems and forest resource. Unlike Dr Quinney, I want to congratulate the drafters of the bill for not defining sustainability. I think, after doing research in this area for a number of years, that it is a concept which defies definition. I want to just briefly illustrate. I'll give you three reasons why I say so.

The Americans in 1966 drafted a bill called the Multiple-Use Sustained-Yield Act, and in that act they attempted to define "multiple use." Now, "sustainability" as a term is very similar to "multiple use" in that it's a conceptual space-time definition that's very hard to get a handle on. Even though they did go ahead and put a definition into legislation, it did not, 30 years after the act, help in any way whatsoever. Defining concepts sometimes is not helpful at all, so I would recommend that sustainability not be defined.

Second, and I say this even talking with my European colleagues, sustainability will have to be regionally, if not locally, defined, in most cases because the application of the concept requires the people most affected to convert the concept into a workable process for forest planning. That's where I think the ideas have to be articulated.

Finally, I wanted to comment on the Forest Management Planning Manual. In the explanatory notes it says, "The sustainability of a forest ecosystem will be determined in accordance with a Forest Management Planning Manual to be prepared by the Ministry of Natural Resources." My translation of that explanatory note is as follows: "The failure or success of the proposed Crown Forest Sustainability Act will largely be determined by the Forest Management Planning Manual. Furthermore, the Ministry of Natural Resources will continue to have effective control over the future of many communities in Ontario, since they control the framework, ie, the planning manual, and the process for resource decision-making."

I would suggest that this explanatory note, along with section 12 just discussed, are essential ingredients to what in the political science literature is termed top-down approaches to planning. I suggest that surely the act can provide some guarantee to prevent this from happening, as it is completely contrary to planning in most other democratic jurisdictions worldwide.

There are important lessons from history on what

constitutes good legislation on forest areas. I suggest that MNR examine the absolute disaster in the United States Forest Service planning system as a result of bad planning, and that was based on the act I referred to from 1966. I wouldn't want to see Ontario follow in the path of our southern neighbours, a path we have too often taken in the past.

Therefore, I recommend that the legislation be far more explicit about the contents of the manual, particularly in section 7, and that the initial draft of the manual be subjected to rigorous examination by representatives of groups of industry, communities, labour, environmentalists and academics to ensure that the manual is designed to accommodate the knowledge and interests of all concerned. This does not have to be a prolonged consultation process; in fact, it could be done in less than a week, as far as I am concerned, and then the MNR could be better assured of using a framework with which everyone generally agrees.

Finally, I just wanted to mention that I am equally concerned that the act does not cover private forest land. I realize it's the Crown Forest Sustainability Act, but the concept of sustainability is not limited to crown land, and I think we are creating a problem for ourselves, particularly in central and southern Ontario, by not having its inclusion. Thank you.

1540

Mr Hodgson: Thank you very much, Gary; I enjoyed your presentation. I'd like to thank you for the work you've been doing in Haliburton county, and I look forward to seeing your report on that.

Do you want to elaborate on what you were just talking about, sustainability of private lands and crown lands, in terms of whether you're talking about volumes of timber?

Mr Bull: In the area I am currently doing a research study in, for example, 80% of the land base is private land and 20% is public land. Obviously, the MNR has a mandate to manage timber on crown forests, but its control over private land is not very well defined; in fact, I would suggest there is very little control. So we find that wood-processing industries are without information, cannot make planning decisions, cannot make investment decisions of any kind. And the MNR is short-staffed so it cannot go out and serve in the role it used to serve. I think they used to take on this role in the past, sort of to be good citizens, but no longer can fulfill that role. So we have a fundamental problem in central Ontario in particular, and southern Ontario as well, because there is now clearly a gap. I have seen evidence in Haliburton county of what I would call unsustainable forestry practices as a result of this gap in the legislation and policy.

Mr Wood: There are two areas I want to cover briefly. If I'm hearing you right, you're saying that sustainability, provincially, regionally, locally—locally is the area we should be emphasizing and cover under the manuals?

Mr Bull: Yes.

Mr Wood: You've also said we should be very rigorously going through the manuals and regulations.

This is the intent at the end of September, beginning of October, to bring everybody together who has been involved—some of them maybe had vacation during the summer, whatever—and go through everything with a fine-tooth comb and make sure the third draft of the manuals and regulations are exactly what you're saying, that they're what they should be.

Mr Bull: The reason I made that comment was because the creation of these manuals often is more important than the legislation itself. In fact, that was the US experience, that we handed to government or bureaucracy the right to write the manuals. In fact, it did not encompass many ideas that people wanted encompassed, so it led, after 25 years and millions of dollars of work, to a disaster. I am trying to warn you of how important that manual is to the whole process, to the legislative process as well.

Mr Wood: We heed your warning, sir. Thank you for coming forward.

Mr Brown: Thank you for coming, because you've brought some new information to us, which we appreciate.

Again I'm perplexed. You prefer not to have a definition of sustainability. Over the past two or three weeks, we've had several different definitions of sustainability put forward, probably more than several. But the bigger question is, is this an act about the sustainability of forests to start with?

We've had people say: "This is a fraud. It has nothing to do with sustainability. It has everything to do with sales. We've got a buzzword here and we're going to go with it."

Also, at least two groups have told us that they believe this act will trigger a forest environmental assessment, not a timber environmental assessment—you no doubt know the history of that—and it looks to those groups as if all that has happened with this act is that someone has gone through and everywhere it used to say "timber," now we're going to say "forest."

This is the kind of conflicting information the committee has been getting over the past three weeks, and I wonder if you could help us. Do you really believe this significantly changes the approach to forest management from timber management? Does it significantly move us down that road?

Mr Bull: I think there is enough there that one could say it's moving you towards forest management, but I think section 7 is deeply flawed. What we end up with continuously is this emphasis on things we can measure, and the things we may find difficult to measure we will call "due regard," that we will give due regard to it.

As someone who trained in biology for a long time, I think there are ways to measure recreation use. I go out and do it all the time as a consultant. I say to the community: "Look, I can give you the first rough cut. I can tell you what I think is the best estimate by talking with the people who know the most about this particular subject and I can put all this together in a package for you." Now, we know there are ways to refine this information and improve it, but I think we need to approach

planning a forest with a much broader perspective.

To me, the critical thing actually is the planning manual more than the actual legislation. I don't think the legislation prevents you from doing that, except for section 7. The contents of the planning manual needs to be strengthened by section 7 of the act.

Mr Brown: But the responsibilities here are all for timber, all for timber; we're managing for timber. That's what this act is about. There are not equal responsibilities or equal opportunity for input from the other users. You go out and essentially you come up with a timber plan, and I think that's what you're telling me when you're talking about section 7 and how that may work in the planning process.

Interjection.

Mr Bull: Again, I'm not sure what the politics of all this is. I'm an independent.

Mr Brown: *You're not sure.*

The Vice-Chair: I can't advise you either. I'm not sure what the politics are.

Mr Bull: I can't say that when I read this bill I felt, wow, this is a really progressive piece of legislation in terms of recognizing all the non-timber values. I have to say that, after having looked at legislation right across the country and the United States and elsewhere. At the same time, I think there is still sufficient room within the bill to make accommodation for the non-timber concerns that many of us have. I don't think it takes a lot of reworking to do that, but I do think it's important for it to appear in the legislation so that the MNR, when it writes the manuals, has sufficient meat, a framework on which to design that manual. That's my major concern.

The Vice-Chair: Thank you for coming. We're glad we were able to adjust the schedule to accommodate you.

1550

ALGOMA COUNTRY ADVENTURES

The Vice-Chair: Our last presenter will be Mr Hilsinger, representing Algoma Country Adventures. Welcome, this time in Toronto. I think last time we saw you up in the Sault. I think you want to make use of the audio-visuals.

Mr J.J. Hilsinger: I'm going to address a few remarks and then I have my video ready to plug in.

The Vice-Chair: Go right ahead.

Mr Hilsinger: Thank you for this opportunity. I thought I would take a different tack and, hopefully, it will be productive. Rather than give you specific comments on the proposed Bill 171, like most presenters, I will give you timely firsthand experience from the field. You will therefore see from another viewpoint that the legislation still needs greater dimension and energy.

I make this presentation on behalf of Algoma Country Adventures, a group of tourist operators located northeast of Sault Ste Marie, including Searchmont, a year-round resort destination.

We believe that under sustainable conditions, not yet specified, timber should be harvested. We also believe, according to our recent experience, that most forestry practices are destructive and not supportive of other

users; that brokering tourist interests is difficult, if not next to impossible.

Beyond the basics of a doughnut or a simple AOC, there is little patience for tourism and other user values. This happens despite global recognition that forestry is a diminishing industry, while ecotourism is on a worldwide growth trend into the 21st century. We note that when the land and its features are gone, there is no opportunity for present or emerging products.

The face of tourism is multifaceted, multidirectional. Foresters talk like it's a fixed commodity, and their sensitivities, decisions and tolerance reflect this. They believe their job "is a messy business." They describe the fact that "Nature will repair itself, in time." These are comments of a cross-section of forestry people in MNR. They say, "Nature will repair itself, in time," while they continue to desecrate trails, views and forest access for hunters and anglers in the pursuit of the almighty two by fours. They fail to realize that a tourism product, be it a mountain biking trail or a remote tourism establishment, has values that, once violated, make the main product unsaleable—for ever.

Marketing of tourism products takes years and much investment. Foresters think you can change the specifications at whim and the travelling public will simply accept the changes from the advertised product, and they think their endless intrusion of superhighways and roads into the hinterland can magically not influence the biodiversity of our forests and the future of our harvest. Forest-cutting companies and the MNR regularly apologize for the shortsightedness of the past, at hearing after hearing, saying, "Trust us for the future." Our experience tells us this is impossible.

Four years ago, we believe we had a typical state-of-the-system experience when a group I represent accepted an invitation to participate in a joint user group overseeing a two-township cut. We celebrated the joy of inclusion and diligently presented ideas about sustainable harvesting, use of equipment, seasonal harvesting method and respect for tourism values. "Let's do such a good job we can create a tourism opportunity," we said, "a showcase for state-of-the-art forestry practices that we can direct visitors to see."

However, we found that current logging practices meant huge equipment, mangled landscape, wide roads, cheap, uneducated cutting labour, no communication between planners and field, inaccessible land after harvesting, rutted landscape from skidders and erosion and, most of all, lipservice to the other people around the table.

This is the current state of the system. The Ministry of Natural Resources and forest cutters say, "Trust us."

If the general public of Ontario saw on a firsthand basis the way the forests are mangled, they would be appalled. Unfortunately, the ecotourism industry has no economic clout to change the policy that users will be consulted but ultimately trees will be cut.

Our experience shows us that the Ministry of Natural Resources is really the department of forestry and that a forest industry business will get the cheap and expedient

to do the cutting job in the field. The Ministry of Culture, Tourism and Recreation is a minor ministry compared to MNR and has no influence in negotiating forest uses. Tourism does not have powerful supporters like forestry. Few people in MNR and the collective forest industry tolerate long-term economic arguments in support of tourism, which is hard-pressed to overcome the obvious economic buzz of a pile of two by fours on a 30-year cycle.

What is ecotourism? Better-known activities include hiking, skiing, hunting, fishing, sight-seeing, kayaking, canoeing, snow-machining. What is the tourism industry? It is the angler who wants to hike through the forest to go fishing, the gas station, the restaurant, the souvenir shop, the grocery store, the resort. It is the muffler shop operator, the Hudson Bay blanket store, the small motor shop, the local recreation committee. It is all of these and more. But did you know that rock-climbing, telemark tree skiing, mountain biking, birding, photography and art are also important activities and products that ecotourism businesses are built around that are very popular exploits?

How do you measure the growth or the potential for tourism? Programs exist and are rapidly expanding in the outdoor environment to deal with natural sciences, personal outdoor skills, business and communication skills, health and recreation.

Ecotourism as an industry is just now emerging. Companies and bureaucrats think in a two-by-four fashion and are intent on rationalizing the last stand for harvest rather than understanding the sweeping changes occurring in forest uses and users and the need to leave remaining habitat so we can compete on the world tourism stage.

There were arguments presented by foresters to this committee stating that tourism should pay its way. We submit that tourism is in fact in the public interest and that forestry should realize that paying your way without a set of principles, values and long-term goals is deficit planning not beneficial to the public interest or to tourism.

Which forest cutters do you know that relish the berry bushes by the side of the road to attract \$150-a-day spenders riding bicycles; the lone white pine on the top of the mountain remaining in its place for ever; forests to hike and bike through, not around; absence of traffic, especially heavy equipment and trucks; focus on natural sounds, not engines; unmolested land-form features such as creeks, waterfalls and variations in the natural terrain?

No one wants to understand enough to rewrite the economic equations to face hard realities of evidence, especially that active tourism and forestry do not mix. Joint use in many cases is a total myth. This is our experience.

Our group submits:

—That land use principles need to be better established. Some areas are more supportive of forestry, others of tourism, but in any case, once the values are assigned, forestry should become a gentler, kinder industry with greater brains and intelligence, not bigger machines that wipe out years of new growth and 25% of the forest to get one tree.

—That tourism needs are deep in cultural, historical, social interface and spiritual land relationships, all totally opposite to objectives of forestry.

—That the tourism industry needs the integrity of very long-term planning for its sustenance and viability.

—That there are not enough guidelines in the sustainable forestry plan to protect tourism values, including trails, and when forestry pays for trees and cutting rights, it is borrowing from the public and does not have the right to alter the biodiversity or the face of the land.

Finally, the MNR has no control over private lands, whose owners are some of the worst desecrators of land. They too must be held morally responsible for new sustainable land practices. I present a video to you of this experience this last spring.

Video presentation.

1609

Mr Hilsinger: That is our experience. Thank you.

The Vice-Chair: Thank you for this rather unique presentation.

Mr Gordon Mills (Durham East): Thank you for coming this afternoon. I see "Algoma Country Adventures" and presume you're in the tourism business and conduct some sort of adventure up there. What is your business?

Mr Hilsinger: I'm the proprietor of the resort and of a place called Algoma's Water Tower Inn.

Mr Mills: I see. So folks come up there and ride bicycles and things like that?

Mr Hilsinger: The resort is primarily a ski area. It's a major northern Ontario resort ski destination. About a third of its business comes from the US and the balance locally and northern Ontario.

Mr Mills: From your presentation, I didn't exactly get the feeling that you were a proponent of this legislation, but I want to be specific and ask you a couple of questions. Have you read the bill? Having assumed that you read the bill, is there anything you see in there that will be of benefit to you in your area in the future?

Mr Hilsinger: We're aware of some sensitivities towards a more balanced approach between tourism and the traditional forestry, tree-harvesting, tree-cutting scenarios. However, there are many more specifics needed in Bill 171. I won't be specific about all the different parts of it, but in general it has to understand and take into account that ecotourism and the public values it represents will be in much greater demand than cutting trees out of a forest in the future.

We need wood. I have 50 loads of wood in my hotel. It's a key part of the decor of that hotel. We support wood harvesting, but not under the conditions it is now allowed to do.

The bill should be somehow re-educating the people who have responsibility for harvesting, because what happens is that the activity is going out in these remote places, and the place in the video is just down the street from where we are, and it still becomes an appalling mess. Foresters don't talk similar words compared to

what the public in general and ecotourism needs to be able to use the land mass in the future. It's a different mentality, totally different intellect.

Mr Mills: In all honesty, could you say this bill is a step in the right direction?

Mr Hilsinger: I think it's a step in the right direction, but we need to leapfrog in the right direction.

Mr Mills: Thank you for coming. It's a long trip.

Mr Wood: With all the users of the resources, the forest, and the sustainability of it, local committees getting all the stakeholders involved, do you believe this is the right way of ironing out differences and conflicts: getting them all around the same table and maybe dancing in the middle of the same table, using the local committees?

Mr Hilsinger: It didn't work in the States. It didn't work. Tupper Shields advisory group was the local region's attempt to bring people together and talk about joint use and more sensitive ways of logging that Tupper Shields cut. As it turned out, it was of no benefit because they did what they wanted anyway. There were a few small concessions, but there were three major violations, this being the last.

I guess we surrendered at one point, because you can't tell them they can't cut because they've got the rights to cut. But the bottom line is that they agreed they were going to be more sensitive in protecting certain areas and did step in that direction and in fact built a different road so they would stay off that Crew Lake trail, but they desecrated the trail anyway. They didn't follow through on their intentions. They promised intensively that they would not touch that special trail for bicycles, and you saw what happened. This is a deep violation of trust and it's a deep violation of people's intelligence, that you want to work with them and then do such awful things.

Mr Wood: This is unfortunate.

Mr Hilsinger: But it's happening all over. I think the public has to see, go into the places we didn't even talk about. There is not much that's nice about forestry. Forestry says: "Ours is a messy business. Nature will take it back." I'm sorry, those are no longer current attitudes that you can have if you're going to talk about sustainable forestry. The bill should address these kinds of things.

Mr Brown: Mr Hilsinger, that's the second time I've seen that. A number of the members of the committee watched it as we went from Sault Ste Marie to Espanola. There was a community advisory committee in place, so that in and of itself probably isn't the answer; it didn't work. We heard a presenter in Thunder Bay make a rather unique analogy, saying that the French Revolution also had community advisory committees and they didn't necessarily have the right result either.

After the fact, did the community advisory committee then view what happened to it? Did you get everybody together again in an ongoing committee and say: "Gee, this isn't what we were told was going to happen. MNR, what are you going to do about it?"

Mr Hilsinger: We have been prompting the MNR to have a joint meeting and they have not done so. How-

ever, in the meantime I met with the people from the forestry company and the MNR—this was not the official Tupper Shields committee—to show this video and discuss it openly around the table. Some of the comments I gave you are those kind of comments we heard.

The person who is responsible in the forest company now is a different person than was responsible during this activity. He was also a presenter at this hearing in Sault Ste Marie, and I have since been with him on a mountain bike, believe it or not. This is my mission, to get forest cutters and people who participate in the woods and harvesting to get on a bike and see it from a general tourist, other-users level. Anyway, we've been out and we've talked about some of these things. By the way, the yellow pails did not come from them.

Mr Brown: I'm not clear about who formed the committee. Was it the ministry? Was it the company?

Mr Hilsinger: The ministry formed a joint user group to supervise the Tupper Shields cut, the two-township cut.

Mr Brown: And supervision didn't include a follow-up inspection, from the committee's standpoint?

Mr Hilsinger: Basically, these kinds of initiatives are perhaps well intentioned, but the mentality that's coming forward in any case is: "The forest will be cut. You are only being consulted as a courtesy." Always, when you push for certain ideas and ideals, the bottom line is that you don't matter. I'm talking about users such as trappers etc. They'll make minor variations, but the bottom line is that it's going to get cut and you're going to be affected.

Mr Brown: The very same company at the Sault Ste Marie hearings suggested that perhaps for other commercial ventures, ie, tourism, it may be fair to set aside lands specifically for them, not for multi-use but for single-purpose use or tourism use, but they could not, in their minds, decide how it was fair that they had to pay the area charge on an area that was set aside for someone else. Do you think the tourism community would be prepared to pay the area charges and the other charges that the crown may forgo to set aside the area for tourism?

He made the point. I'm just asking for your response.

Mr Hilsinger: I don't know what forestry companies pay for area charges. We'll put out 3,000 mountain bikers there this summer; I'd be glad to pay you \$2 out of the trail fee, something like this. I don't know. Many ski areas in the States pay leases for land. This is not unheard of, and these are things that are possible.

But as I was alluding to and pointing out in my report, how do you measure whether the resort or the public interest is being met, and the broader face of tourism? There's a strong public value in being more sensitive and having stronger regulations on joint use of the forest, or single use, if it may be, and how you assign the values is very difficult.

1620

Mr Hodgson: Thank you, Mr Hilsinger. That's the second time I've seen the video, and it's a powerful way to present a message. It's proved very successful.

Mr Hilsinger: That was basically home video. There was no huge production team behind that. That cost us \$300.

Mr Hodgson: I did one the same for my campaign.

On the education, you mentioned ecotourism. I've had a bit of experience in that, that we're trying at our community college. That was the focus we're going on.

Mr Hilsinger: Sioux college?

Mr Hodgson: It's in Haliburton. I think it's the first course on ecotourism. We're trying to run it this fall, and I was part of the steering on that.

I'd like to go back to Mr Mills's question. He asked, is there anything in this bill that helps you get there? It's our intent that eventually, through education, we will have multi-use of our crown resource, and it is public lands we're talking about. I think everybody agrees on the intent. But do you see anything in this bill that will stop us from going in that direction?

Mr Hilsinger: In the bill itself, I can't think for the moment, but the main problem with going in that direction is that they continue to make a mess in the woods as we sit here and talk, and they continue to desecrate the outdoors irresponsibly and take other users for granted. This "Trust us" attitude and the continual apology you hear when you go to different hearings, for different reasons, the apologetic attitude—at some point you've got to say: "We don't trust. Stop apologizing and stop cutting." If this bill can somehow create more stringent conditions under which a company has to stop cutting until they educate people on how to harvest and use more sensitive methods of harvesting, perhaps that should be in the bill.

Mr Hodgson: One person suggested to us that the only way you're really going to get to where you want to go is if you have multi-use allowed on the crown land, but allow for compensation to be given to a tourist outfitter or to a person like yourself if one person's use destroys, goes outside the agreement, is a major violation of the other person's use. Have you thought about that at all? When you looked at your trail that was ruined, did you think of suing for compensation?

Mr Hilsinger: That was proposed, but I don't think it's going to be of any benefit for us to divert our time to do so. I'm trying to do my best to work with the forest industry. We need a lot of help out of a 171, an expanded 171. As I say, I believe it needs a lot more dimension and energy. You have to understand how powerless you are out there in the face of traditional thinking that's gone on for 50 or 75 years, when they believe they have the right to do exactly what they want. Other users are just like dust in the wind.

Mr Hodgson: I'm suggesting that might be changing with courses like ours. It was a lumbering industry and now we're going towards some kind of shared multi-use, and ecotourism is going to be taught in the college.

Mr Hilsinger: Talk about your Huntsville and that area. They've already blown it. The trees are gone. There's the prime Muskoka area, but there are huge tracts where you've lost the character of the land. The same thing is going to happen up north, and you don't have anything to use for a product and ecotourism when all of that's gone.

The Vice-Chair: Mr Hilsinger, you've certainly, at

the conclusion of these hearings, brought some rather dramatic visual images and also some dramatic comments to our attention. I'm sure the committee will consider it carefully. Thank you very much for coming down here.

This will conclude the public hearings on Bill 171. Before we adjourn, I would like to remind all parties, particularly the critics, if at all possible to put forward the amendments they may be suggesting to the clerk by September 8 so the clerk can distribute them. Mr Brown, you had a question?

Mr Brown: Not really a question; just a comment. We, the Liberal Party, will certainly endeavour to have as many as possible of our amendments to the clerk by September 8, but people should understand that logistically there is at least some problem. We need to wait for the

final legislative research summary. To do our job properly, we have to wait to review the Hansards of this week, and there's still a little of that to come. We may then take it to legal counsel. We will commit to do our best to have them all to the committee, and I hope the government and the other party do also, but logistically, with the holiday weekend, this may be a problem. We'll have as many as we can, is what I'm saying.

The Vice-Chair: I think that's understood. It's appreciated.

Are there any further questions or comments? This committee stands adjourned until September 12, 2 o'clock in the afternoon, here in this room.

The committee adjourned at 1626.

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Bisson, Gilles (Cochrane South/-Sud ND) for Mr Wessinger

Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson

MacKinnon, Ellen (Lambton ND) for Mr White

Miclash, Frank (Kenora L) for Mr Sorbara

Morin, Gilles E. (Carleton East/-Est L) for Mr Grandmaître

Runciman, Robert W. (Leeds-Grenville PC) for Mr Arnott

Wood, Len (Cochrane North/-Nord ND) for Mr Morrow

Also taking part / Autres participants et participantes:

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Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Luski, Lorraine, research officer, Legislative Research Service

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(Hansard)**

Monday 12 September 1994

**Journal
des débats
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Lundi 12 septembre 1994

**Standing committee on
general government**

Crown Forest
Sustainability Act, 1994

**Comité permanent des
affaires gouvernementales**

Loi de 1994 sur la durabilité
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GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Monday 12 September 1994

Lundi 12 septembre 1994

The committee met at 1413 in committee room 2.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Acting Chair (Mr Gilles E. Morin): There was a motion a couple of weeks ago that the first hour of this session would be dedicated to questions the critics have to pose to the representatives of the ministry.

MINISTRY OF NATURAL RESOURCES

Dr David Balsillie: My name is David Balsillie. I am assistant deputy minister of the policy and program division of the Ministry of Natural Resources, and we appreciate having this opportunity to return before the committee. You may recall that we opened the hearings, and we have some information for you today.

I have a presentation which will take about 20 to 30 minutes, which should leave another 30 to 40 minutes for questions and answers. Other staff are with me and they'll join me here as specific questions require specific answers.

In addition to the oral presentation today, MNR has prepared written answers to the prepared questions from the critics of the two parties and those have been distributed just prior to the beginning of this session.

To begin this presentation, during the course of the hearings several subjects have been raised where additional explanation may be of additional benefit to the committee, and the topics that I would like to address are: sustainability; silvicultural funding mechanisms; forest resource processing facilities, ie, mills and chippers; tenure, licences and evergreen clauses; the cost-benefit of the Crown Forest Sustainability Act; and environmental assessment in the Crown Forest Sustainability Act.

The first item is sustainability.

You may recall that just about everyone who made a presentation to this committee observed that there was no definition of "sustainability" in the act and several candidate definitions were presented. There has been lots of discussion before, during and since the hearings around the issue of definition and description of "sustainability." While everyone agrees about the basic concept behind the words, there are wide-ranging views on how best to express it for day-to-day management purposes

After much discussion, we have decided that a definition of "sustainability" is now proposed for inclusion in the Crown Forest Sustainability Act: "'Sustainability' means long-term forest health."

In addition, there will also be proposed amendments that require the Forest Management Planning Manual to adhere to some principles to enhance the determinations of sustainability through the application of that manual.

These principles, which will be in the act, include:

- The maintenance of diverse and productive crown forests.

- The conservation of ecological processes and biological diversity.

- The use of forest practices that emulate natural disturbances and landscape patterns within limits of silvicultural requirements. This refers to the different types of natural disturbances in the different forest regions of the province and to the fact that it is impossible to exactly duplicate the pattern of natural disturbance.

- Minimizing the adverse effects on plant and animal life, water, soil, air, and social and economic values.

The Crown Forest Sustainability Act also requires that Forest Management Planning Manual provide for the determination of sustainability. The manual does so by defining sustainable forest management as the process of managing permanent forest land to achieve one or more clearly defined objectives of management with regard to the production of a continuous flow of desired forest benefits without undue reduction of the inherent values and future productivity of the forest and without undue and undesirable effects on the physical and social environment.

The planning manual also describes the ecosystem-based approach to forest management in terms of planning for the management of human interaction with some aspects of the forest ecosystem.

In addition, the planning manual recognizes that local forest management activities should contribute to the maintenance of forest ecosystems at the broad regional level.

The manual subscribes to the concept that forests come first in planning and in operations.

Objectives will be set at the management unit level in the context of provincial policies and regional objectives that will describe the future forest condition. This could mean the maintenance of the current forest condition or it may indicate that changes to the current condition are necessary to meet long-term sustainability goals.

Measurable targets need to be defined and methodologies need to be described that will achieve the objectives and targets.

The planning manual will describe means to ensure that sustainable approaches are used. Indicators will be described that will enable periodic monitoring of progress in meeting the objectives and targets.

The need for a monitoring program that will be put in place to track and record the results of operations and treatments that are conducted on a management unit are described in the manual, along with a reporting procedure so that progress can be evaluated and so there is a record of what has occurred on that unit.

This approach is the essence of adaptive forest management, which provides a means for continual refinement, redevelopment and improvement.

Finally, the manual is set up in a way that permits the addition of knowledge and methodology based on new science and technology as it is developed and tested, so that the manual can stay up to date and adapt to new and better techniques as they become available.

The second item is silvicultural funding mechanisms. Considerable interest has been shown in this topic, hence I will speak to it directly.

Securing silvicultural funding has been a challenge in recent years, given the fiscal pressures that face the government. The Crown Forest Sustainability Act provides new mechanisms, via trust funds, to ensure that proper levels of silvicultural investment is available to meet the needs of the individual forest management units.

The MNR will now have four silvicultural funding mechanisms: forest renewal trust and/or special-purpose account; forestry futures trust; and MNR's silvicultural allocation. Information on these mechanisms is now included in the written response package. However, I would like to highlight a number of points for each one.

First, the forest renewal trust. It becomes active when a new-style FMA agreement is signed through the new business relationship à la the Carman exercise. As a component of stumpage, a forest renewal charge must be paid into a provincial forest renewal trust into an account specific to that management unit. The contribution rate is set for the first three years; after that, it will be reviewed and the rate will be adjusted to reflect the experience on that unit. At the end of a five-year transition period, the company must maintain a minimum balance in that account to fund the management unit's silvicultural program.

Second, the special-purpose account. This is an account which will be maintained by treasury, for use where there is not a forest renewal trust, that is, for FMAs who have not signed a new agreement and for crown management units. A forest renewal charge is collected as part of the stumpage. We will use subaccounts by management unit, and MNR can access these funds to ensure that renewal is carried out.

Third, the forestry futures trust. A forestry futures charge is paid by all licensees as part of the area charges. These funds are maintained in a single provincial account and will be administered by a trust board or committee.

The fund is for additional silvicultural work required as a result of such events as fire, blowdown, insects or in cases of company insolvency. It also will allow for intensive stand management.

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Finally, there will be an MNR silvicultural allocation. These are funds allocated by government as part of the normal estimates process, and MNR will access these funds for such programs as tree-marking for hardwood management, private land forestry, and operating the Angus seed plant.

In summary on this topic, the questions, "Will there be enough money to fund the silvicultural program, and how much is that?" are often asked. The important point to recognize now is that the mechanisms are in place to ensure that the appropriate dollar amounts will be contributed to each management unit's account to fund the type of silvicultural program necessary on that management unit to meet the provincial standards. Also, in the event of a natural disturbance, like fire, there are funds that can be accessed for renewal operations.

The question regarding the actual dollars and cents needed is dependent on the type of silvicultural program needed on a management unit, the local conditions, and the manner in which the operation is conducted. Here again, the important point is that this approach ensures that the necessary level of funds are contributed based on these local conditions.

The third item is the forest resource processing facilities, ie, mill licences and chippers.

The committee has heard concerns expressed from a number of people about the licensing of mobile chippers. The major concern expressed related to those chippers which were operating as an in-the-bush processing facility, with the chips destined for a single pulp mill which would already have a mill licence. This concern was a result of wording that was in a proposed regulation and not a clause in the Crown Forest Sustainability Act.

As I'm sure you are aware, a chipper, whether fixed or mobile, is capable of significantly impacting jobs and community stability. Mill licensing is a means of managing the supply of chips.

MNR has also heard this concern and has responded by changing the wording of the regulation. A new section has been added to the regulations to provide for exemptions from the forest resource processing facility licence, ie, the mill licence. MNR is currently developing policy and procedures to define the approach for exemptions, as directed by this regulation, for some chippers.

The fourth item is licensing and tenure.

Some questions have been raised during the hearings with respect to evergreen licences and the fact that they don't appear to exist under the new Crown Forest Sustainability Act. Under the current act, the forest management agreements provide for a 20-year licence. Audits are conducted at the end of each five-year period. If all the performance standards have been met, the licence is renewed for a further 20-year period. This can go on so long as there is satisfactory performance. In essence, the licence is in effect in perpetuity. This does not provide an

absolute guarantee of tenure. Land use planning may have an effect on the land base or the amount of timber available to a licensee.

The CFSA now describes a sustainable forest licence which is renewable. This will be based on performance standards such as the results of the forest renewal efforts.

This section of the act is intended to recognize the importance of tenure to the industry while providing mechanisms to ensure fair access to forest resources. There is a transition provision in the CFSA that converts existing FMAs to sustainable forest licences under the Crown Forest Sustainability Act.

The fifth item is the cost-benefit of the Crown Forest Sustainability Act.

The costs of the primary forest operations are not sector-specific. The costs of planning a harvest, accessing, harvesting and hauling timber to the mill gate are not dependent on the end product. Differences in cost depend on other variables such as roadbuilding and the length of haul.

A preliminary look at the proposed legislation suggests that in addition to the current costs of doing business, there will probably be some additional costs associated with the implementation of the timber class EA terms and conditions, which are enabled by the Crown Forest Sustainability Act and will be incurred in any event. In addition, there will be costs associated with the sections of the new act that reflect the shift to an ecosystem approach to forest management, and perhaps licensing. The new act binds the crown, so these costs and benefits will apply here as well.

The proposed legislation makes provision for larger operators who do not currently have FMA agreements to obtain a sustainable forest licence. The process to obtain this licence and to comply with its terms and conditions, such as the preparation of the forest management plan, could result in some additional cost. This should be small for companies that do have current OIC licences and are already doing management plans. The costs to licensees who opt for a sustainable forest licence but are not currently preparing management plans will be higher by the cost of the management plan preparation. On the benefit side, this kind of licence provides better security of a sustainable supply of forest resources. Improved long-term planning is an asset that assists when financial institutions are asked to provide capital to the licensee.

The Crown Forest Sustainability Act enables the minister to require the licensee to prepare a forest management plan and an annual work schedule. This could be seen as a potential additional cost for some licensees who work on a management unit that has the plan prepared by MNR currently. This section of the new act recognized that some new business arrangements, like a consortium of smaller companies or a community forest, could be developed. This section of the act could then apply, and planning costs would be incurred. It is not the intention of MNR to force small operators who do not have the resources to incur this kind of expense.

The Crown Forest Sustainability Act requires companies operating in the forest to provide information for

the purposes of forest management planning and for the purpose of preparing reports. Much of this work is already being done by the larger companies, in some cases in a cost-sharing arrangement with MNR. The Crown Forest Sustainability Act and the EA terms and conditions could require the collection and reporting of additional information for the purposes of planning and reporting. The benefit is improved forest management and compliance with the timber class EA terms and conditions.

Forest operations prescriptions are required under the CFSA. This is an additional requirement over current practice. Some additional cost may be incurred. The benefit is improved silviculture and a way to make sure that all areas that are harvested will be renewed.

The final item is environmental assessment and the Crown Forest Sustainability Act.

We do not believe that the Crown Forest Sustainability Act will precipitate the need for another environmental assessment. MNR has in place a variety of mechanisms to comply with the Environmental Assessment Act.

MNR has approximately 25 exemption orders in place today to cover a variety of activities, ranging from forest fire protection to wildlife habitat management, which were declared not to require separate approval under the Environmental Assessment Act.

MNR also has a number of class EA approvals in place which also cover a number of activities, ranging from the recently approved timber management EA to approval for single-project activities such as access roads to MNR facilities and dams and dikes.

Where there has been a need, MNR has also prepared an individual EA to address specific proposals, such as Red Squirrel Road and timber management in the Megisau Lake area.

Together, these exemptions and approvals cover the full spectrum of activities that MNR conducts that are subject to the Environmental Assessment Act.

It should be noted that the on-the-ground activities of access, harvest, renewal and maintenance, as described in the class environmental assessment for timber management, are viewed as being components of forest management and will continue in accordance with the EA board's decision.

And it should be noted that the EA board expressed the following view, and I quote from page 69 of the EA board's "Reasons for Decision":

"Nothing in our approval of the timber management planning undertaking prevents MNR from adopting improvements that may be demonstrated to be beneficial from its investigation of an integrated forest management approach. In fact, our conditions of approval anticipate that MNR will move in the direction of integrated forest management during the term of this approval."

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Mr Michael A. Brown (Algoma-Manitoulin): I'm wondering if we could have a copy of Dr Balsillie's notes at some point, not necessarily this second.

Dr Balsillie: Okay. Yes.

Mr Brown: I asked a question about cost-benefit analysis, and I've been trying to speed-read through the answers we received and haven't quite managed it all. Could you tell me how much the ministry believes it will save in administrative expense under this act versus the Crown Timber Act? Or how much more will it cost?

Dr Balsillie: We would be anticipating that there would be less cost to us from the silvicultural portion, yet that there will be increased costs to us as a result of the reporting and the information and compliance. To my knowledge, we don't have a number in each of those areas. In other words, if you're looking for x million dollars down or x million dollars up, we don't have those kinds of absolute numbers.

Mr Brown: But your expectation would be that the administrative cost of the new act will be greater, taking the silviculture out?

Dr Balsillie: That's correct, to the degree and extent we yet have to find out.

Mr Brown: As we went through the weeks of committee hearings, we heard from a number of players in the industry. We heard from people with the district cutting licences, we heard from people with the OICs, and we heard from people who have the present FMAs. It seemed to us, as generalists listening, that there is a different impact or at least a perceived different impact on each of those groups as we went through; some of your comments today may have allayed some of the fears. But has the ministry looked at the impact on particular sectors of the industry under the new act versus the Crown Timber Act?

Dr Balsillie: To a certain degree, yes, we have, and we wanted to allay some of the fears around tenure. In terms of looking at the large FMA holders, there's a perception that tenure is less because the minister would have the option to change that licence, while with the current FMA agreement there has to be agreement between the two parties.

With putting "renewable" into the act, we would anticipate that there would be very little change from the new forest management agreements with regard to the evergreen aspects. But we have to also realize that the environmental groups and first nations are interested in having, number one, a representative number of areas set aside for ecological representativeness across the province, across the country; and that the first nations are looking, as I think you heard Alan Roy indicate, for an FMA, for instance, for first nations. There are these other forces which we also have to manage.

On that sector, then, we're trying to balance between ensuring that there's an evergreen opportunity for the OFIA companies to take that agreement to the bank and say, "I have a long-lasting tenure on that property," notwithstanding the fact that the minister has the right under conditions to change that licence. The lumber manufacturers, on the other hand, appear to be less concerned about some of these issues. As a matter of fact, a lot of their members are third-party licence holders and they're looking for a better deal between the third-party licence and the FMA holder.

In terms of the way the act will help them operate on FMA lands, they are a little more receptive to the way this act proceeds. I think they both are interested in making sure that the act not only has the perception of sustainability but in fact delivers sustainability because of the implications for offshore sales in enviro-friendly marketplaces. Whether it's the United States or Europe etc, forest products not only have to be seen to be but have to be coming from forests which are managed in a sustainable fashion.

Mr Brown: And the small DCLers?

Dr Balsillie: I guess there's not a large change to that. There's going to be some opportunity for them to continue to cut and there are going to be licences for them. There may be some questions around the planning and information-gathering, but I don't think we've heard many really negative comments from them.

Mr Brown: Well, we have heard some. To be fair to the ministry, some of them maybe weren't as informed as they would like to have been, but we've heard several presenters who were very concerned about their viability in maintaining their operations under this new regime. You would be suggesting, then, that those fears are largely illusory, not founded in fact, that in fact those small independents will be able to operate more or less as they have for many years?

Dr Balsillie: More or less. As I said in my opening remarks, we're not interested in putting small DCLers out of business in any way, shape or form. They're part of the health blood of the industry and the communities across this province, so we're not interested in putting them out of business. Where they can work together, where we can help them work together, where they can work with prime licensees, then hopefully that could happen.

Mr Brown: I just recall the one independent who, when a co-op was suggested to him as a way they might work some of these matters out, suggested that if you got 20 independent loggers in a room, you didn't have a co-op, you had a fight.

The timber production plan: I just noted that you expect to have this complete by this Christmastime or thereabouts?

Dr Balsillie: There's a term and condition within the class EA for timber management that says we have to have a timber production policy in place by December 31, 1994, and we are striving to do that. We will have the next iteration of the discussion document out before the end of the month and we'll be calling for comments on that and hope to have the production policy, or something similar, before the end of this year.

Mr Brown: Is your job made a little more difficult by us considering this new act at the moment, or do you see any problem between the old Crown Timber Act and this act in determining the timber production policy of the government?

Dr Balsillie: No, I don't think so. It was probably more dependent on the fact that we had to produce the framework policy first and provide general direction for how the timber production policy should fall into line and

into line with this new act, which falls in line with the new policy. It was really attendant more on the policy being finished and getting the general direction finalized and then we could produce the policy. And we've been working at this for a few years, so it's—

Mr Brown: There's an understatement.

Dr Balsillie: We're not just pulling this together at the last moment.

Mr Brown: Essentially, between this proposed act and the former act, there isn't much difference in terms of the timber production policy?

Dr Balsillie: No.

Mr Brown: In other words, there'd be about the same amount.

A big question we've heard over and over is the question about the residual value tax, as I call it, fee as the government calls it. We're having a little difficulty over here understanding exactly how that works. Could you explain that to us? It is empowered, I believe, by section 28 of the act, which is really quite vague. It gives the minister the power to set the price, I believe is what it says.

Dr Balsillie: I'd like to call Mr Geoff Munro, who is the implementation director for the new business relationship, commonly called the Carman exercise. They have been working on the development of the residual value model.

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Mr Geoff Munro: In answer to your question, to describe the residual value component of stumpage, the situation we find ourselves in in this province is that we do not have an open market for logs, so as a result, we needed some other proxy for what a log might be worth on the open market if it were an open market system. The residual value is just a means of using product prices—the products that are produced from those logs in the different sectors—as a measure of what that log might be worth on a given day in an open market. It's nothing more than a means of reflecting the up-and-down, rising and falling market value of the timber the crown sells by using, as I said, the price of the product that's produced.

The term "residual value" comes from the fact that the only way to do that in a fair and market-representative way is to do it after you have taken into account the other costs associated with the production of that product. If all the costs of hauling the logs to the mill and doing the processing and shipping the finished product off to market are taken into account, allowing some margin for profit and risk, as any company will want to do, you then have a residual value left over that is accruing to the input—the log—and therefore is a reflection of that log's value. It's nothing more than a means of coming up with a price for the log.

Mr Brown: But the price varies as to what the end product would be. For example, lumber has a different price from chips for pulp.

Mr Munro: Correct, and that is why the residual value calculation is done on a sector-specific basis. The proposed stumpage system is broken into a number of sectors—sawmill, pulp, paper—because each sector also

has significantly different production costs. It costs a whole lot more to produce a ton of pulp than it does to produce 1,000 board feet of two by fours, so the cost is built into the price and therefore the log value is built into the overall market price of the product.

Mr Brown: And you determine that because there are the various sectors. I'm just trying to understand this. From the forest perspective, though, a tree is a tree. The tree that is 10 inches in diameter which could go to the sawmill has a certain price on it because it is going to the sawmill, whereas the same tree, if it's going to the pulp mill, has a different price on it, even if it's the same tree.

Mr Munro: Potentially, that's true, but it also depends on where it is in the province. We have sawmills that are running the three-inch tops to produce—what we call stud mills. If you're down in a more southerly location, that same tree would be multiplied many times and be run through a pulp mill. So it's not just size of log, it also has to do with geographic location and the mills that are being—

Mr Sean G. Conway (Renfrew North): If I can, on this point, I take it that this mechanism is one that is intended to allow the ministry to more clearly evaluate for the crown the value difference between a skidway of—God forbid, if there are any left—yellow birch veneer and a skidway of low-grade poplar destined for a chip mill.

Mr Munro: Yes, it's a pricing mechanism. That's a good description.

Mr Conway: So this would be of particular value to Her Majesty's minions as they calculate a return. The criticism, surely, of the old system has been that you really weren't able to distinguish in terms of value between—as one of my constituents likes to say loudly—filet mignon and low-grade hamburger.

Mr Munro: Your analogy is good. I can't argue with it. The logic is correct. It's designed to distinguish between the value this log has, and of course part of that value is the infrastructure within which we operate. The infrastructure includes that the pulp mill is over here, the sawmill is over there etc. That adds to our ability as the crown to sell that log. It's all a pricing mechanism for the value that log has to the crown.

Mr Conway: Does that mean that if you make that calculation you will consider, for example, differential input costs that are imposed or have been traditionally imposed by the province? For example, in northern Ontario, as I understand it, the ministry has subsidized certain forest access roads, but that's not something that has been done in my part of the Ottawa Valley. Therefore, the product cost in the latter case is greater than in the former because of the different way we treat roadbuilding.

Mr Munro: If the MNR still had roadbuilding money, that would in fact be the case; it doesn't, so it's not.

Mr Conway: And for all time it won't.

Mr Brown: On that same issue, when we're talking about the value of logs, Canada has argued several times, successfully, before American trade commissions and I believe before the free trade commission that the value of

some of our trees is actually a negative value, that north of 60, for example, a tree actually has a negative value because of its geography, the length of haul to a mill etc. We have made that argument as a country and as a province and been successful. Distance, as you mentioned before, is a big determinant of cost. I guess I'm just expressing a concern that some of the more remote communities under this kind of regime may not be competitive any longer in terms of producing sawlogs or pulp logs or whatever.

Mr Munro: The actual calculations for haul distances are done on a sector basis. The sectors don't always cluster geographically, so there will be some anomalies. But one of the things we've avoided like the plague is being mill-specific in the allocation of a residual value or any stumpage system. We looked at our colleagues across the country, and BC did have a residual-value system in place for a number of years and chose to change it because they had allowed it to become mill-specific, and that quickly became a problem. You were not only exposing the cost-benefit, the books if you will, of a given company's operation by the stumpage you allocated to it—you could glean from that knowledge how they were doing—but also you ran into the potential for everyone, every mill owner, to come forward with an "I'm different" excuse and reason and need for some other attention. So it is done on a sector basis.

Mr Brown: We have heard a lot about the citizens' committees. I haven't yet been able to read all of what Dr Balsillie has just said in the copy we now have before us, but those are called for under the terms and conditions of the timber EA.

Dr Balsillie: That's correct, and in the written response there's a list of all the criteria etc which were listed in the timber EA.

Mr Brown: But the wording in the bill is not similar to the wording in the terms and conditions. I'm just wondering why there's a difference between what is said in the legislation, where I believe it says "may," not "shall"—

Dr Balsillie: That's being changed now to "shall." That's one of our amendments.

Mr Brown: There you go. And there isn't as clear a definition. Is that going to be spelled out in the regulations—I haven't seen it in the regulations or the manuals—or do we just rely on the terms and conditions of the EA report?

Dr Balsillie: I'll answer part of your question and then I'll ask Mr Cleary if he could come up and talk about where that might otherwise be described.

The reason it's slightly different is that the timber EA had "the area of the undertaking," and this is a provincial act so there are areas outside of the undertaking of the timber EA. The legislation is all-inclusive, whereas the terms and conditions from the timber EA are in the area of the undertaking.

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Mr Ken Cleary: Just to add to what David has said, the selection and format of the local citizens' committees would be fully spelled out in the forest planning manual

as part of the consultation provisions set out in that manual, and those details that are in the terms and conditions are explicitly laid out in the manual.

Mr Conway: Can you give me an idea of what that might look like and feel like? I think I know, but I'd be interested in your take. Say I'm living in Mattawa, Ontario, and I hear about this. What can I generally expect I might get in one of these citizens' committees?

Mr Cleary: They would be representative of the local groups that are impacted on the activities addressed by the plan.

Mr Conway: Ultimately provided for by—

Mr Cleary: Provided for by the planning manual but specific to the management unit and the plan involved and, I would add, specific to the area.

Mr Conway: So the regional director of MNR makes the final decision as to, within certain rules, who it's going to be and how it's going to work.

Mr Cleary: I think the decision is primarily up to the forest manager, the person responsible for preparation of the plan.

Dr Balsillie: That would more than likely be the district manager, not the regional director.

Mr Cleary: Yes, I meant the district manager.

Mr Chris Hodgson (Victoria-Haliburton): Thank you very much for agreeing to come in and answer our questions. Mike Brown and I both really appreciate you coming in; we both requested it. We have a lot of questions, and I just quickly went through answers to the written questions.

In regard to the cost saving or the cost-benefit analysis to the ministry and to the industry—I appreciate that doing an analysis on the industry is time-consuming. Your answer to Mr Brown on the Carman exercise was that you're going to save a bit on renewal but it might cost a little bit more on the administration of that fund. In the estimates you gave to the minister, I guess, or the province of Ontario, there's a chart on page 39 of the estimates for this year. This estimate was put out in the spring—but you're right, this act wasn't done hastily—and it forecasts there's going to be a new sustainability act.

One of the explanations for the expenditure change from 1993 to 1994 of \$20 million is "forest renewal transition funding for new Ontario/forest industry business relationship." I assume that's talking about the Carman exercise and not the trust funds, or both?

Dr Balsillie: They're linked. It's the transition from the one system to the other.

Mr Hodgson: There's \$20 million here, but at Sault Ste Marie, when we talked about this transition, it was explained two days later that it was going to be \$35 million. How do you explain that?

Dr Balsillie: I'll ask Mr Munro if he can come back. He's our expert on this \$20 million and the \$35 million.

Mr Munro: The \$20 million that was referred to as the transition funding is the transition funding in the estimates and is the money that's used in the current fiscal year. The transition of the old to the new is a five-

year transition period, so—I don't have all of the figures in front of me—it grows through time until the grand total of five years is \$95 million. The first year is \$20 million, as in the estimates, and that's what this year's allocation is, and then next year I believe it's \$10 million, and then it goes on from there to add up to the grand total.

Mr Hodgson: Does this money go towards the trust funds? This is the transition? In Sault Ste Marie the ministry staff gave us—it's in Hansard, but just to use rough figures, and don't quote me on it, don't hold me accountable to it—\$60 million for the renewal fund, \$6 million for the futures trust fund, and \$14 million for the area charges. Yet the minister announced at the press conference in Toronto that there was going to be roughly \$100 million in the trust funds, and the ministry staff said, yes, there would be \$100 million. Two days later we had a clarification where that money was coming from. The additional \$35 million, I believe it was, was going to top it up so this year there would be \$100 million in the trust funds.

I can pull it out of the Hansard if you want. You'd remember, David, that that was asked at Sault Ste Marie. I assumed the money that was going to come out of that would be what was in the estimates for this year's expenditure, or where did those numbers come from?

Mr Munro: The money that's available in the current fiscal year will be the \$60 million, which is the FMA contribution to the forest renewal fund, and it will take two forms. It'll be either in the trust fund for those who have signed on, or in a special-purpose account for those who have not yet signed on, as David said in his remarks. Add \$20 million, which is the transition fund, so that's \$80 million, and there'll be \$6 million in the forestry futures trust fund.

Mr Hodgson: But we're told it's going to be \$100 million. I've got \$86 million now.

Mr Munro: Yes. I don't know where that other comes from, other than the core silviculture program of this ministry—

Mr Hodgson: So we're going to take it out of that?

Mr Munro: There's \$68 million in our estimates that is core. It is our current silvicultural program which funds the silviculture on the crown units, so when you add that in you're over the \$100 million.

Mr Hodgson: That's a lot of ministry staff, though. Is that going to be used out of the renewal fund?

Mr Munro: That money doesn't go into the renewal fund. And then April 1, 1995, you get a new addition to the renewal fund—I have to keep my terminology straight—from the non-FMA component of the licensees.

Mr Hodgson: Okay. I'm sure that when I look at the Hansard I'll be able to figure it out. I'm still confused about where you're going to get the \$100 million. You're going to take the whole budget of the silviculture, then, and put it toward the renewal trust fund for this year?

Mr Munro: No, I didn't mean to imply that, because that money will not actually be transferred to the renewal fund per se but it will be used for renewal.

Mr Hodgson: But there was \$35 million that came

out of a special-purpose body that was announced two days after we opened the hearings. I'm sorry, I'll get that for you. It's in the Hansard. David, you'd remember when that was done. It was two days later. Anyway, that's enough. I have other questions I'd like to move on to.

Back to the estimates book. It's mentioned at that time that you'll have "the ability to license and price a wider range of forest resource values," and later on in the estimates book you talk about how you're going to "develop methodologies for quantifying the value of various forest resource commodities." I wonder if you've made any progress on that and what kind of dollars we're talking about. We're talking about those other resource values being non-timber resource values, I would believe. What do you have in mind? This act clearly allows it and that's what was laid out in the estimates.

Dr Balsillie: There are two things in terms of what is listed there.

One is that we would have a better handle on the costs of production in the various sectors that we were talking to Mr Brown about. We would have a much better handle on what an individual sector would do in terms of its costs of production and what its profitability would be and what its ultimate sales would be, so we would have much better information to go on in terms of applying the residual value model. That's one part of it.

The second part of it is something we call the forest values project, part of our sustainable forestry program that started in 1991, and it's been going hand in hand with the timber production policy at looking at: What are the values of some of the other forest commodities? How do you measure them, and then how do you take into account that value in terms of applying some sort of rent or crown charge? At the hearings, for instance, it was suggested by a certain lumber company that maybe tourism operators should pay a crown rent, and you heard the NOTOA representative indicate that maybe they'd be willing to look at that. That's another forest value.

1500

Mr Hodgson: Have we moved along that line? Do we have anything ready for the public on that?

Dr Balsillie: We've had two workshops already on forest values and we're working on having a third and getting our next discussion paper out, and we're working on moving that whole question of forest values along. If you talked to Mr McDermott, he would say the forest had an intrinsic value just because it was there and possibly that nothing should be done in certain places.

Mr Hodgson: On the same page in the estimates, it says, "based on the direction set by the Policy Framework for Sustainable Forests providing options for timber production, including costs and benefits for consideration by cabinet." That's why I asked for the costs and benefits. I thought maybe you'd already had one prepared for cabinet.

Dr Balsillie: The sustainable forestry program has to return to cabinet in November of this year based on a commitment we made in late 1990, early 1991, for that whole program, so we'll be coming back to cabinet with

the total amount of information we have by November of this year.

Mr Hodgson: I've got a couple more questions. One is that up in Sault Ste Marie, David, you mentioned this in a prepared brief you read for us, in section (g), near the end of your comments. You wouldn't have it in front of you, so I'll just read it. You're referring to this act, what it will do:

"There will be an enabling clause for compensation in dealing with specific cases of allocation reduction or for loss of past capital investments such as roadbuilding and mill construction."

I might have missed it, but I can't find in the act per se where there's a clause that talks about compensation for allocation reduction in terms of roadbuilding, capital investment. If it's there, I've missed it and it's just my fault.

Dr Balsillie: I'll have to ask Stuart Davidson, legal counsel to the Ministry of Natural Resources on the act.

Mr Stuart Davidson: In terms of your question, if there are to be compensation clauses included, they will be in the terms and conditions of the forest sustainability license, just as it's covered now under the forest management agreements.

Mr Hodgson: I can appreciate that, but it says, "There will be an enabling clause for compensation." Is there a clause that specifically enables that type of compensation?

Mr Davidson: Subsection 23(1).

Mr Hodgson: It's a continuation? It's not envisioned as new? Not for the future; that's for past agreements that have already been entered into.

Mr Davidson: But should we enter into similar arrangements in the future, it would be equally possible.

Mr Hodgson: That's good.

The last question I have regards the amendments of the government. It's right in the first section, and you've talked about it with Mr Brown. We've got the definition of "sustainability" being "long-term forest health," then we've got "Determination." When it goes to "Principles"—this is subsection 1.1(3) of the amendment—you don't mention or take into account what's mentioned in the purpose and in a lot of the hype around this bill, that it's going to do sustainability two ways.

You mention the ecosystem and the "silvicultural requirements, emulate natural disturbances and landscape patterns" etc. But the second side of sustainability was going to be sustainable communities across the province; you were going to sustain the industries that are presently there. That's mentioned in the purposes of the act and it's in the press releases. I'm just wondering why you wouldn't have a subsection 1.1(3)3 that talks about the sustainability or economic viability of the communities that are dependent on the forest.

Dr Balsillie: First of all, it is in the preamble etc, and in the new section we've added with the principles it does say, "minimizing adverse effects on plant life, animal life, water, soil, air, and social and economic values."

Mr Hodgson: Minimizing the effects, but it was stated in a positive sense that it would enhance or maintain the economic viability of these communities. It's not that you'll have regard to and not destroy it, but that you're going to sustain it.

Dr Balsillie: I'll take your point on that.

Mr Hodgson: Okay. Moving on: The ministry's going to have to implement this policy when it becomes law. Under the old Crown Timber Act, you always had this idea that the crown gets its dues. There's been a committee set up since 1891 called a board of examiners; that was always in the act and now it's outside of the act. The scaling audit procedure I feel should be in the act and then it's not just in policy that can be changed. That means you can audit and it's quantifiable and it's regular throughout the province and it's using accounting principles.

Just a general question: Under the old Crown Timber Act, if you wanted to change the first licensee's rights to the timber on a crown management area or crown unit, you would have needed the first licensee's permission to prove there is a surplus or you'd have to negotiate with them.

Dr Balsillie: Yes.

Mr Hodgson: Under this new act, technically, would you need that or can you just say, "We deem there to be a surplus and therefore we can announce new projects without this consultation and quantifiable proof."

Dr Balsillie: I'll ask for some backup in a moment, but it's my understanding that the minister could, following discussion with—what's envisaged in the implementation is a discussion with the prime licensee rather than unilaterally going in and swiping the timber. There's a process envisaged of having discussion with the company concerning the excess timber. I don't know, Ken, whether you want to come forward and talk to this for a moment. They are still the prime licensee and they're still active on the crown land.

Mr Hodgson: I realize it's envisioned, but is it required that they agree that there's a surplus on this land under this new act?

Mr Cleary: The surplus would be determined largely as a result of the planning process and the statement of the licensee's requirements in the plan, so I guess there would have to be a general agreement in terms of the amount of the surplus.

Mr Hodgson: But under the Crown Timber Act, isn't that necessary, that you prove there's a surplus before you can change the primary licence holder's rights to that timber?

Mr Cleary: Not specifically in the act itself.

Mr Hodgson: But you've got an agreement. Under this new act, even under section 23, when you bring it in, the minister can still supersede that, can he not?

Mr Cleary: The act is structured such that we would hope, in most if not all cases, that there wouldn't be an agreement between, if I can use the term, the prime licensee and the third-party licensee. What the act provides for is that if that agreement is not reached and the supply of timber is essential to the third party to meet

his needs, the minister has the authority to impose arbitration. The structure of the act is such that ultimate agreement, be it cooperatively or through arbitration, is an essential requirement prior to the licence being issued.

1510

Mr Gary Carr (Oakville South): The new amendment has come in for a definition of "sustainability." As you know, there was much criticism from all sides. I take it you've run the amendment you've put forward by the Ontario Forest Industry Association. Do they now agree with your definition?

Mr Cleary: We met with them this morning. I'm not sure whether I could categorize the discussion. We didn't spend a lot of time on the definition per se. I think they are satisfied that there is now a definition in the act, yes.

Mr Carr: But do they agree with your definition? I know they wanted a definition in the act but, as you know, what came out of the discussions was the fact that it was difficult to get a definition. That's why I said we couldn't get it. Do they agree with it now?

Mr Cleary: I'm not sure I would want to categorize the discussion. We simply touched on this topic. They indicated some satisfaction that the definition was there.

Mr Carr: Whose definition is it?

Mr Cleary: That's a definition that the Ministry of Natural Resources prepared.

Mr Carr: No group came forward? There were numerous groups, whether we talk about natives or environmental groups. There wasn't a consensus on it, so the ministry has taken its definition and implemented it and it's the ministry's definition, as opposed to any of the groups that came forward.

Mr Cleary: We've looked at a number of documents, we've looked at a number of the definitions put forward by various groups. It's as good a definition as we think we can come up with.

Mr Carr: Would you categorize this definition as a consensus among all these groups? That was one of the big things. We said we couldn't get one there would be a consensus on. Do you believe there's now a consensus on this definition of "sustainability"?

Mr Cleary: My sense is that there would be a broad consensus around the definition.

Mr Carr: Even though the Ontario Forest Industries Association doesn't agree with it, you still think there's a consensus out there?

Mr Cleary: I'm not sure I said they didn't agree with it.

Mr Carr: You answered it worse than a politician; you didn't really say.

Mr Cleary: But I can't.

Mr Carr: Yes or no, do they agree with it? That's all I'm asking. If I go and ask them, they're going to tell me. Yes or no, do they agree with your definition?

Mr Cleary: They didn't say. We touched on the subject. They indicated general acceptance. I believe their words were, "We're pleased to see it's now addressed in the act."

Mr Carr: I know everybody wanted a definition.

Mr Hodgson: I have one quick question to do with this idea of scaling, proposing that there be a fifth manual, that the ministry's own Scaling Audit Reference Manual be put in the act so it can't be just changed as a policy, that it's in the manuals section as a fifth manual. It gets confusing when you go through the act and you see the word "counts" and things like that if you're talking about forest resources other than trees. Would it not make it simpler if we defined "forest resource" as a tree and then had other ecosystem resources that the Scaling Manual wouldn't apply to? Do you understand where I'm coming from on the confusion on that?

Dr Balsillie: I understand. Under the definition of "forest resource" as it exists, the Scaling Manual applies. If we were to address, as a result of the values exercise, something else, that would be put in as another part of the forest resource and the measurement techniques would then be addressed. That would be new information, new material, new manuals.

Mr Hodgson: So the word "counts" should be out of there. Throughout the act it's referring to the scaling. Otherwise, you're getting away from the scaling.

Mr Cleary: There are measurement techniques now used with timber where trees are counted.

Mr Hodgson: That's part of the sampling, but it's not part of the scaling.

Mr Cleary: It's part of the scaling procedure.

Mr Hodgson: If the crown wants to get its actual dues, it's more of a guess. Do you agree that having a fifth manual called the Scaling Audit Reference Manual—that wouldn't be any big problem, would it, to include that as a manual? It already exists in the ministry. It's the ministry's own document.

Mr Cleary: Yes, and that's incorporated in the Scaling Manual as defined—

Mr Hodgson: Yes, but it's only got two paragraphs, and I'd like to see it be a separate manual to stand alone by itself. The ministry already follows it as a policy. I can't see it doing any harm having it as a manual. Do you agree with that? That's all I'm asking. Would it create a nightmare?

Mr Cleary: It is incorporated in the Scaling Manual.

Mr Hodgson: The actual audit reference manual itself is referred to in the Scaling Manual in two paragraphs, but it's outlined as a policy and it wouldn't be in the regulations. What I'm saying is that if it were a fifth manual, it would have the force of law and would have to be changed accordingly, not just a policy that could shift and nobody would know about it.

Mr Cleary: You're asking my opinion?

Mr Hodgson: Yes.

Mr Cleary: I don't think it's necessary, no.

Mr Hodgson: Would it do any harm, can you see, from an operations point of view if you included it?

Mr Cleary: Not from an operations point, no.

Mr Hodgson: It wouldn't cost more money or require more manpower because you already follow it, basically.

Mr Cleary: Yes.

The Acting Chair: Thank you very much, gentlemen. We'll now proceed to clause-by-clause.

Mr Hodgson: Mr Chair, can I move that we adjourn until tomorrow morning, given the fact that the Liberal amendments and my follow-up amendments and the Liberal follow-up amendments have just been received today? It's complicated, and the first section of the bill is very important to this whole act. If I could be given more time, if the committee could recess until tomorrow morning, I'd like to move that.

The Acting Chair: Do we all agree?

Mr Daniel Waters (Muskoka-Georgian Bay): Mr Chair, if I might, I understand Mr Hodgson's dilemma, but if there's some section he feels he can't talk about today, that he needs extra time for, maybe we could set that aside. But we have a limited amount of time and I would suggest that we get on with the job at hand and start clause-by-clause. If there's any particular section, I think we'd be willing to discuss setting it aside until tomorrow if need be, but I think we should get on with the job at hand. That would be my recommendation.

Mr Len Wood (Cochrane North): I had a discussion with Chris earlier. There is no amendment from the Conservative caucus on the first section. If there is no problem, we could proceed with the first section, and then if we run into difficulty, I think we should go back to Chris's motion and say yes, let's take some time to go forward with some of the other ones so we're giving them all fair consideration.

Mr Hodgson: I agree. It's just on section 2.1. The first motion I have is that the forest management plan be called the forest resource management plan. That's just a general one.

Mr Wood: So we have a Liberal motion and then we have a government motion.

Mr Hodgson: Yes. It's the Liberal one I wanted time to study. I'm serious. That's a pretty big motion.

Mr Brown: I would like to support Mr Hodgson's motion, but in lieu of that, Mr Chair, if we could have 10 or 15 minutes while we organize these amendments into our binders so we have some understanding of where we're going, that would be helpful to the opposition.

The Acting Chair: Would you like to withdraw your motion, Mr Hodgson?

Mr Hodgson: I'll withdraw it, yes.

The Acting Chair: We'll proceed with Mr Brown's motion. Any objection? So we'll recess until 20 minutes to 4. That gives you 20 minutes, ample time.

The committee recessed from 1520 to 1542.

The Acting Chair: We're ready to start.

Mr Brown: I move that section 1 of the bill be struck out and the following substituted:

"Purposes

"1. The purposes of this act are to provide for the sustainability of crown forests and, in accordance with that objective, to manage crown forests using the following principles:

"1. Maintaining ecological processes is essential for the functioning of the biosphere and biological diversity must be conserved in the use of forest ecosystems.

"2. Large, healthy, diverse and productive forest ecosystems are essential to the environmental, social and cultural wellbeing of Ontario, now and in the future.

"3. Forest practices, including all methods of harvesting, must emulate, within the bounds of silvicultural requirements, natural disturbances and landscape patterns.

"4. Forest ecosystem types should not be candidates for harvest if harvesting would threaten or jeopardize their long-term health and vigour.

"5. Forest practices must minimize adverse effects on plant life, animal life, water, soil, air, and social and economic values, including recreational values and heritage values."

Through the three weeks of public hearings we heard from many groups that this act desperately needed a definition of "sustainability," that after all, sustainability is in the title of the act. There were a few groups that went so far as to allege that the title of the act was a fraud, that it was hypocritical, and a number of other concerns.

But it seemed to be a consensus across the board that sustainability needed to be defined. The groups offered various definitions of "sustainability." The one I'm putting forward today is the government's own definition of "sustainability" that came from the Diversity report. It seems to us that in the absence of a widely held consensus on what sustainability actually is, the Diversity report showed the largest consensus group among the various presenters.

I think there is much merit in this definition, although I will tell you that we are not totally comfortable with this definition. But it is, in our view, the best one that was presented to the committee.

I would also tell you that in putting forward this particular definition, we intend to be voting against section 4, which exempts the provincial parks from this definition of sustainability.

We have to remember that this is not the Crown Timber Act, although it looks like it's the Crown Timber Act. Various groups have said this is the Crown Timber Act, and I concur with them. There is no real way of determining whether sustainability for crown forests is really going to take place after this act. In fact, there's much evidence that would indicate the contrary.

I therefore think it's important that we look at crown forests not just in terms of timbering activities but in terms of all the values and all the activities that happen in Ontario's forests. This definition, I believe, covers that better than any of the others. Therefore, we're putting this forward, and we would certainly like to hear the comments of other members regarding what I think is the basic premise of this entire act.

Mr Gilles Bisson (Cochrane South): I was reading the motion brought forward by the Liberal opposition. I think if you read the government motion that was brought forward as section 1.1, it basically encapsulates what is being said there. The only difficulty I have is that what

you're trying to do here is put that right in the purview of the act entirely, which I think is something we need to be careful of. We have to allow the best technologies to move forward with time, and our understanding of the forest and our ability to deal with that to be a lot clearer.

I was looking at paragraph 4 and recognized where this comes from, where you're taking it from. But what does "Forest ecosystem types should not be candidates for harvest" mean? That's pretty wide. I'd be a little nervous about that.

Mr Brown: The member may have a point. I'm not going to debate that, other than that it does continue "if harvesting would threaten or jeopardize their long-term health and vigour."

Part of the problem with dealing with this act is that so far no one has defined to my satisfaction what a forest is. I don't even know how many forests Ontario has. I would be pleased to find that out at some point. I would have no idea how many ecosystems exist in this province. I don't have any idea, and I'm hoping someone can help me along this route to knowing how we can deal in this ecosystem framework about which forests can be harvested. If we shouldn't harvest a forest, and that's what 4 says, "if it jeopardizes long-term health and vigour," maybe we shouldn't be. Maybe it should be a park or some other designation that would protect it. I don't particularly see why this is problematic.

Mr Bisson: Basically, we heard from all the presenters on the question of sustainability, and I think we heard a split. Everybody agrees there has to be some kind of definition—after all, that's what the act is all about—but there seems to be some reservations about putting everything into the act itself.

I see doing it the way you suggest as basically freezing it in time, and putting it into the act might be a little bit problematic over the long term. But I think the amendment we have as section 1.1, the government motion, tries to build a hybrid between the two: to build comfort for certain individuals by having in the act a definition we all can understand and we all can work towards, but not limiting ourselves to the point of not being able to move along with the best new technologies of the day, because a definition of "sustainability" today and one 20 years from now might be a little different, given the technologies and given our understanding. I would ask you to take a look at the government motion. I think it does what you're looking for, but in a much more prudent way.

1550

Mr Brown: I don't see this definition as being that restrictive. I am still trying to wonder how this could cause any difficulty to new technologies, to new understandings of how the ecosystems work. I don't really see that this is a very restrictive definition; if anything, maybe the problem with it is that it isn't specific enough, because from the definition must flow the specifics, the goals: What are we trying to achieve here? As you apply this definition in the more specific cases, you might be right. But the specifics aren't here; this is a pretty broad definition, and it's one the cabinet of this government approved.

Mr Wood: As we heard over the whole three weeks, different people were trying to give an interpretation of sustainability and whether it should be in the act or should be in the regulations or should be in the manual. We feel we have appropriately addressed it by coming in with a new section, section 1.1, which would be more useful as principles to be used in the determination of sustainability in the Forest Management Planning Manual.

The go-round we've had in dealing with what the Liberal caucus has brought forward is that the wording might be very difficult to apply in a legal sense. Yes, we have to deal with sustainability, and our preference is to go with a new section 1.1, the government motion; as they're numbered in the clerk's book, it would be motion number 2. We feel that would address the concerns that were brought forward throughout the public hearings and reflect the advice we've had from some very professional foresters who have given some very good advice.

Mr Brown: I think it's most important that the definition appear in the act, that there actually is a definition that relates to the title of the act. If the government cannot accept the definition that I understand has been approved by cabinet, that's come out of the Diversity report, that has had a broad consensus—I'm having a little difficulty understanding the approach that the government cannot accept its own recommendations, cannot define a word that is the main word in the title of this bill. If that has to happen by putting it off into a manual that could be changed virtually any time, then I'm confused.

I have had a problem all the way through trying to understand the absolute arrogance—that's probably the right word—that future generations might find when they read this title 40 years from now and say, "These guys knew what sustainability was?" It seems to me we're maybe a little presumptuous even using that title, but if you're prepared to use the title, you'd better be prepared to use a definition that's in the act.

The definition should not be relegated to regulation or to manuals. It should be in the act. If you are worried that that encumbers your ability to deal with the issues the act deals with, you'd better change the name of the act. We've said all along that this looks far more like the Crown Timber Act, revised, maybe new and improved, maybe new and worse, whatever characterization you want to put on it, but this is the Crown Timber Act.

If you want to make it a crown sustainability act, I think at the very minimum you have to include a definition. If you don't like the definition we have, you should put one that will be in the act, not in the regulations, not in the manual, but in the act so we have an objective, some goals we can measure the various provisions of the act against. If we don't have those, it seems to me that the act is, as some of the groups have said, a fraud.

Mr Hodgson: I'd like to speak to this motion. If we're going to have a definition of "sustainability" to be consistent with the title of the act, probably the one to use is the one in the Diversity report, that went to public consultation and also was approved by cabinet. There should be definitions and it should be measurable, but there are two issues I'd like to speak on.

First, a definition should speak to both aspects of sustainability that are being sold to the public, that is, that the forest as an ecosystem is being sustained, but also the economic sustainability of the communities and the jobs related to the forest industry. That's been clearly put on the table as one of the objectives of this act: to sustain the economic wellbeing of the people and the families that rely on the forest industry as a whole, and that's not just the timber component of it.

The second issue we should be careful about when we define this act is its relationship to section 52; that has to do with the remedies and enforcement. What we're saying to people is that if you want to operate on the crown forests you have to follow the rules, and if you step out of line there will be remedies and enforcement, there will be fines. But we're not defining in a quantifiable way what the line is. When you try to put in a definition that only takes into account half of what it's supposed to mean, it's not measurable.

I'd rather see the act become a sort of umbrella legislation where, over time, if you put in a definition and find a definition that's agreeable—maybe the one from Diversity that's been approved by the cabinet—you then have to redefine what "forest resource" is. The one that's quantifiable and can be measured or audited is "forest resource" as timber. And as your science and information about inventory progresses, the act would allow for other areas to be defined and measured, for instance, moose habitat or other ecosystems, and they all have to be consistent.

Also, if you take away the working area, the productive area, of a licensee, there must be compensation allowed, which is allowable under this act.

But I'd be careful about putting a definition in that can't be measured and then basing your damages—under section 52 it says, "damage that impairs or is likely to impair the sustainability of the crown forest." You're basing your fines on the definition, but if your definition isn't quantifiable—that's why I didn't put an amendment here, unless you get a change in the definition of "forest resource." Make it specific to a tree, and if your science develops to the point where you can sustain the ecosystem of the moose habitat, put it in and say: "These are our objectives. This can be measured."

If you say damage to an ecosystem in the forest—if you're working in the forest, every time you start up a bulldozer or a skidder, you're going to damage something. If you drive over some moss, you've damaged an ecosystem. Does that mean you're going to shut down that industry? I don't think so. So how does the staff make this work on the ground? It has to have the flexibility of the manuals so it's not a cookbook approach.

If you're going to put this amendment in, you have to make a whole series of changes and treat this legislation as an umbrella, with most of the sections just dealing with the timber. As we progress, we will add other ecosystems as we get information and knowledge on how to coordinate those activities.

Mr Bisson: "Forest resource" defined just as timber I think would be a problem, because we've recognized for years that there's more to the forest than just timber

and that's part of what we're trying to—but that's for another discussion.

In regard to Mr Brown, maybe I can point out something that might be of some help. He and I are both from the same part of the province, in the north, and we understand just how important the forest is to our communities' economic wellbeing as well as the aesthetic part of nature. I understand where you're coming from when you put forward your amendment the way you do. I don't see it as being frivolous and I don't see it as being mean-spirited or anything else.

I want to point out that, yes, we have to define within the act, to a certain extent, what sustainability does. If you look at the government motion as per section 1.1 that's basically what we're doing. We're saying, "Here's what sustainability means—long-term forest health—and here is how we determine that, here are the principles by which you will determine it."

The problem I see—I've had this discussion not only with people within MNR, but last week I went back and talked to people, probably as you did and as other members did, who work in the industry. There's some concern, I would say, after having met with a number of different people in the forest resource management business, that if you try to make it ironclad in the act, we're really leading ourselves into a problem because we're not going to be able to move along with technology. If technology or our understanding of that technology changes, as it has over the last 10 or 15 years, we're going to stymie ourselves, to a certain extent, with the act.

1600

What we want to do is make this a living document, just as the forest is. We need to have a document and we need to have an act that defines what "sustainability" is but gives us the ability, through the determinations of the regulations and manuals, to move that along according to the best-known technologies.

From all the discussions I've had with industry people, people in forest resource management facilities, people in silvicultural practices, greenhouses, harvesting people, people who own and run mills, they seem to be fairly in agreement: "If you're going to do it, don't lock us in in the act," is what they're telling me. A few of them have spoken directly to the particular section you have there that was found within the document you referred to, and there's some fear that that's what would happen, that it would really stymie us.

I think what we need to do is make sure that the act reflects the forest, that the act reflects the availability of the knowledge we have to both harvest cautiously and manage our silviculture in a way that's in keeping with the forest, our best-known technology, our economic, social etc. I would hope you would support the other motion rather than going that way. I think that's really limiting us—not limiting us, but really cornering us more than we need to be.

Mr Wood: The feeling on our side, as Gilles Bisson has said, is that the definition of the act is clearly spelled out in the motion that the government has brought forward. It allows for determinations of sustainability in the

manuals, adaptable over time. It clearly defines a definition in the act and provides concise principles that draw on the five points.

There's no doubt about it, the five principles in the Liberal motion were based on our broad consultation throughout the province, with over 3,000 people, to come up with that wording. But the message we're getting is that we can define "sustainability," which we've done, that "'sustainability' means long-term forest health," and then we have the determination and then we have the principles, so we've gone one step further. In addition, we are not eliminating any part that is in part I of the act, as proposed in Bill 171; we're saying we should add to it with section 1.1 and go on to give it stronger language and not necessarily try to weaken it.

I'm hoping we're able to give the argument that, yes, the five principles you have there are something, but by eliminating the other part, the purposes—our government motion would leave that in and would also cover your five principles in addition to defining it, along with the determination and principles, without having to put it into a hundred pages. We had some people who came forward and said, "You could write and write and write to explain sustainability." We've tried to condense it as short as possible and do what the people asked us to do during the public hearings.

Mr Carr: One of the problems we've got is that people came forward on this bill and said we needed a definition but couldn't give us one. We'd ask specifically, "What would you do?" and they'd say: "You figure it out. There's been a number of definitions. You pick." Ultimately what happened is that the ministry had to pick the definition. I don't think if we wait three years we're going to get a definition everybody could agree to. The choice is between the two definitions, and I guess we're going to get the government motion because they'll probably win that one, but I could support the Liberal motion as well.

The difficulty we've got in reaching a consensus on this is that everybody agreed it's important but we're never going to come up with an agreement. We can even dicker. As I look at the Liberals'—and as you know, I'm a newcomer to this—there are some things I would change. It's almost like putting a constitution together: Once you change one word, somebody else doesn't like it, and then the other group doesn't like it.

So I recognize the difficulty the government had in doing this. I guess what has to happen at the end of the day is that they finally have to make a decision and take everything into account. I asked the question on numerous occasions, "Do you think we can get a consensus?" and people said: "Yes, we can. There should be a consensus. There's been enough in the number of documents." But I don't know if we could, because, as you know, numerous documents came out where one particular group didn't support it. We didn't have one that was unanimous for all groups.

I do have some difficulties with the Liberal motion, without going too much into the specifics, but I certainly can support it. Ultimately, at the end of the day, I suspect that all the groups are going to have some difficulties

with some portion of it, including the one that eventually will be the final one, which I guess will be the government motion. I will be voting in favour of this Liberal amendment.

Mr Hodgson: I think there should be an addition to either the Liberal motion or the government side's so it's consistent with the purposes set out at the start. "The purposes of this act are to provide for the sustainability of crown forests and, in accordance with that objective, to manage crown forests to meet social, economic and environmental needs of present and future generations." The only mention of the economics in this definition of "sustainability" is that we minimize adverse affects. This bill is supposed to be very positive and promote economic sustainability, and either definition should have some mention of that in it.

You're also, I think, opening up a can of worms without a land use plan, either in place or to be developed. I realize it takes a lot of gnashing and a lot of work, but that's essential if you're going to have a bill that will have measurable objectives in the future.

Mr Brown: I take what Mr Hodgson says to be very important. There is no direct mention of the economics in this definition, although I find it difficult to understand how we could have sustainable economics if we don't have a sustainable environment. I think that's impossible. In the short term you could do that, but certainly in the long term that would not be possible. It could be that somebody, to keep a community alive, might do something that was bad for the environment and everybody might think that's all right. I don't think so.

That's why this definition doesn't relate to the communities. I would be glad if Mr Hodgson would like to make a friendly amendment to include his concerns about communities and the social fabric of much of northern Ontario, and even Mr Hodgson's part of Ontario, for that matter.

The crux of this matter is that we have a bill called forest sustainability. The government has commissioned a group that went out, through the Diversity report, and defined sustainability. This is their definition. I understand that cabinet approved this definition. Am I incorrect?

The fact is, if you don't adopt a definition of "sustainability," this or another one, I think you have no choice but to take "sustainability" out of the title of this bill. This is not the approach our party would have taken to the whole concept, but this is the approach you've chosen.

1610

Mr George Mammoliti (Yorkview): What is the approach your party would take?

Mr Brown: We'll get to that later, Mr Mammoliti, but right at the moment we're here.

Interjections.

The Acting Chair: If you want to have the floor, I'll take your name.

Mr Brown: The point is simply that you have chosen to call this a forest sustainability bill. If you can't use a definition of "sustainability" as part of the act, if you

believe sustainability is somehow negotiable over time, that you can change it over time—these are broad principles here. This isn't tying anybody to any particular technology. This is not limiting the understanding of ecosystems. This is not limiting our understanding of forests. It is not doing any of those. I don't understand how this limits anything at all, and I guess the cabinet didn't understand how it was limiting anything at all. Therefore, you chose as a government to put forward this definition, and you put out a bill with a lot of hype, that a lot of people have great hopes for, called "forest sustainability," but then you can't define "sustainability," other than in a mechanism that can be changed at the whim of a succeeding government or a succeeding minister through changes in the regulations and manuals.

I find it totally incomprehensible. If somebody on the other side could give me one tangible example of how this definition may in the future limit what might happen, I'm all ears.

Mr Randy R. Hope (Chatham-Kent): Unfortunately, I didn't have the opportunity to travel around, but I wish to make comments because the fine work legislative research does gives us an analysis of what people have said through the process. In the context of that information, listening to the comments that have been made by the opposition, I'm sitting here trying to understand, what would be the direction? Should it be in a definition or our principles?

I believe the principles are a very important part. The definition and principles in the government motion clearly define the communities and people's lives, which we are talking about. It clearly reflects that and allows them the opportunity, in the manual, to look at a more perspective way of dealing with business.

One of the problems with legislation is that if it doesn't change quickly enough as times change, the effects are more rapid to a job or to a job site or whatever it might be. But under a policy or a manual, as long as the principles are held of what the direction is—and we all know that some of our principles may change. That's why it's important that principles be defined in the legislation and the direction in which we wish to achieve them will be there.

I see Mr Brown clapping his hands. Mr Brown's motion is dealing with the definition, but the principles established under the government motion are more reflective of what I read. I'm only reading—I never heard all the jargon that was put forward by the groups—but what I read clearly indicates that the government motion is the clearest direction in which to go, which allows opportunity for individuals to be part of the process. I just heard the comment made by Mr Carr that nobody could really give us a true definition, and I believe that will still be there tomorrow, but principles and guidelines, objectives of what people are trying to achieve, can be developed in a manual which will allow that community flexibility. I've also read something in here which talks about regional flexibility. Under that, you will be able to allow it.

I'm going to be voting. I compliment legislative research for their work in collecting all that information,

because it does allow me to make an informed decision. The informed decision I'll be supporting is the government motion versus the Liberal motion. I believe it's the direction the communities want.

Mr Bisson: Let me see if I can put this a little more clearly for my friend. I know Mr Brown puts this motion forward because he is genuinely concerned about forests.

What we've got in the motion the Liberal Party has brought forward is basically the five principles which were described in the Diversity report. If you take a look at that and you read the government motion, the government motion basically takes all of that and encapsulates it in a more concise form. But what it allows us to do is measure, through the determinations of the manuals and the principles, just how well we're doing against those principles we've enunciated and described in the act. The problem if we were to do it the way you suggest is that you can't do that; you would be leaving it, quite frankly, for the courts to determine that, and I'm not so sure that's what I would want.

What I want in the end, and I think it's also what you want in the end, Mr Brown, as somebody who is concerned about the forest, is to make sure we manage the forests in the best possible way, given the technology we have today and given the ability we have to do the job, because in some cases we may have the technology but certainly don't have the money to do it, or the personnel or whatever. It allows us to manage this with the best-known technology and in the best way we humanly can, and it doesn't set us up that we have to do it in a way that's unreachable. That's the fear I have with the way this is put forward.

Look at what the Diversity report brought forward as five principles by which we're to do this. What we have in the government motion is a definition that says "Sustainability" means long-term forest health," and I think that basically says it, and the determinations under subsections (2) and (3) set that up so we have a mechanism against which to measure how well we're doing.

It's not because I'm a government member but because I truly believe it's the best way to do it. Talking to people in the forestry industry in my area, around Timmins, I didn't give them the exact definition, I didn't give them these motions because I didn't have them at the time, but that's the gist of what people are telling me to do as their representative. I'd hope you support the government motion.

Mr Wood: We've heard some comments around the table. What we've tried to put in the purpose clause is that we're managing for "social" and "economic" and "environment." "Social" to me means a good way of life for individuals out there in the communities. "Economic" means protecting the jobs that are there and creating new jobs through sustainable forestry, and that is spelled out in the purpose section of the clause.

The principles we feel we have wrapped into our motion should guide the manner in which we will provide forest conditions to meet society's needs. I'll repeat that society's needs could mean the stability of the communities, the economies of the communities, creating jobs, protecting jobs, all of this. It's all spelled out in the

purpose clause the way it was originally proposed, and I believe the government motion is putting more teeth into it than what the Liberal motion has, which is basically the five principles or five points that were in the Diversity report. So I will be supporting the government motion as opposed to the Liberal motion.

Mr Brown: I find this conversation interesting. I'm not sure the definition we've presented is the best definition of "sustainability." I will tell you that quite frankly. There may be better ones. But this is the definition that a group of people put together at government direction, that the cabinet approved, and, at least in my mind, is the essence of this bill. I find it a little strange that a Liberal opposition member is making the government's case for it. I'm putting forward the government's definition of "sustainability" on a government bill that says "forest sustainability." It is really somewhat ironic.

If the problem is that we're not quite taking the economics into consideration, maybe I'm agreeable to that. I would ask the parliamentary assistant, therefore, if he would consider using his definition instead of mine, but putting it in the bill, not in the forest manuals.

1620

Mr Wood: We've said very clearly what sustainability means in our motion, and we've gone on to incorporate the five principles the Liberals have brought forward, which is only a small portion of the Diversity report, and we've made it broader. The five principles in the Liberal motion are basically all covered under the government motion. In addition to that, we have the definition spelled out and the determination that it will be covered in the Forest Management Planning Manual. We've gone one step further, as far as I'm concerned.

Mr Mammoliti: I'm just going by memory at this point, but I do remember some questions that were asked of the minister when he was before the committee, and I'm hoping his response might put this debate to rest. The response given when Mr Brown, I think, asked this question of the minister during the hearings up north was that the definition over time has changed and will continue to change, and putting it in the front of the act would make it very difficult at a later stage to change it. Consensus throughout the hearings also proved that everybody is in agreement with that, that 20 years ago the definition was different than it is today.

For that reason, the minister doesn't want it in the act, and he was quite clear about that. To continue this debate I think is just proceeding in a way that of course the minister wouldn't want us to proceed in. He wants it that way and I think he was clear about why, and it was also pretty consistent with deputants in front of the committee.

I'm hoping I'll have the last word in this debate. I guess not.

Mr Carr: One of the problems, and it goes far beyond this issue, is that governments like things flexible and in regulations. Oppositions don't. What we heard—and it wasn't a criticism of this government—where there was a bit of consensus, was that people said they wanted it in the legislation because they didn't trust any government, of any political persuasion. When you leave it

open, through the manuals, there was some concern.

I go back to many bills that have come through here. I remember the Police Services Act, when Ed Philip, if you ever look back at Hansard, went on in eloquent debate—I guess that was when there was no time limit—about putting things in regulations, about how as legislators we should put in whatever we mean. Of course what happens when they become government is that they like to use this term "flexibility," and that things will change.

People recognize that nine months from now this won't be the government of the day, and the people who came forward were continually saying, "It isn't just the NDP we don't trust, it's any government of any political persuasion," and they feel more comfortable with things put in. I don't say that to be confrontational, because I think they were very specific. It wasn't aimed necessarily at this government; they don't trust any government. They said, "Lay it out very clearly," because when we don't do it through legislation, when it isn't public like this, where changes to legislation are brought forward in committees, when it is left through regulations—I don't say this negatively to the people on staff here, but they are very concerned that it goes through without public consultation and gets done through the bureaucracy, that changes can be made without a lot of public input and the government of the day, regardless of which, can make very, very important changes. The one concern everybody said is, "If you're going to do it, let's lay it out in the act so the government of the day cannot come back easily, without public input, and make any changes that are necessary."

That's the only comment I want to make and to contrast it, because it is exactly what has happened in other bills. It's the principle of, where do you believe most of the authority should rest: with the elected officials, who make the changes through legislation and acts and committee hearings, or do you do it through a lot of regulations?

We pass over 1,000 regulations a year in this province; obviously, it can't all be done through legislation. We've seen how things take so much time when we have to do it through legislation: this process on this bill, the whole summer on the hearings and so on. It is much more difficult to change.

When the people did come forward they said to be very careful when we leave it to regs, as the government motion does, because they do not trust any government to do it properly. That's the concern I have—and I'm jumping a bit ahead to the government motion—and one of the reasons it's difficult to do. The reason I'm supporting the Liberal motion, even with the problems that I believe are in the motion and some of the concerns those raise, is that it will be in the legislation. I think that's an important factor to consider.

As we all know, the Liberal motion, because of the majority, will probably be defeated and the government motion will pass. I hope that in the process in accordance with the Forest Management Planning Manual, we will be very careful and that the government, the government in power, will make sure that all these voices are consulted. I can bet right now that both the government motion and

the Liberal motion—let's pick a group, one of the most prominent ones, the Ontario Forest Industries Association. I bet if you asked them, as I said to the gentleman earlier, whether they would support this definition, they'd say no. I bet they'd also say no to the Liberal motion.

I recognize that it's very easy. But as the government motion is going to pass, I would hope that at the end of the day—and the government has to make the decision regardless of the consensus—some of the voices and concerns will be heard. To their credit, one of the members from the ministry said he had a meeting today with the Ontario Forest Industries Association, so I presume that process is going on. But I suspect they would not want us to pass the government motion because they are very, very leery of giving the government too much power to make changes so fundamental as the purpose clause without input.

The government is going to give a tremendous amount of power, through the Forest Management Planning Manual, to the next government. Whichever it is, I'm saying be very careful, because I do not believe that's what the vast majority of the people who came before this committee wanted. That's the only point I would like to caution everyone about as we look at these two purpose clauses.

Mr Brown: I think it would be good for people to think back about what happened over those three weeks of public hearings. I think we will recall there was virtually—well, I suppose there was the odd group that came before us that wasn't concerned about defining "sustainability," but there weren't many. Most of them felt, whether you were in the forest industry, whether you were a lumberman, whether you were one of the many conservation or environmental groups, that there was a need for a definition and that the definition needed to be part of the act. That is what we're arguing about.

The point I am trying to make today is that we're offering an amendment which makes the principles part of the act. The government alternative is to make it part of the policy planning documents, quite a different thing, particularly when you have the gall to define the act as forest sustainability. I would think, as many others would think, that if you're going to call the act that, you'd better have some idea of what it is and you'd better have some certainty of what that definition will be, not only today but in the future.

1630

As I remember the hearings, one of the presentation came from the professional foresters. Ken Armson came before us and talked about the certification of "sustainable forest management." He talked about the Canadian Standards Association working to come up with a standard that would be available in July 1995. This standard has goals, this standard has guidelines, this standard has specifications so people know whether it's sustainable or not, and the CSA will be approving Ontario's products, hopefully, as it will products from all across Canada, from Ontario's and Canada's forests, on the basis that they come from sustainable forests. They will have that definition. They will have those specifications. They will have all of those things by July 1995.

If the government cannot believe or have confidence that it itself has a definition of "sustainability" that will meet the CSA standards, I'm bewildered. I don't understand what we're sitting here talking about. Mr Hampton has over and over again said that one of the big reasons for this bill is so that we can tell the world that Ontario's forest products come from sustainable forests. "I, however," says Mr Hampton, "can't define sustainable forests. I'm unwilling to do that in the act. I might do it in some way where I can change it if I so choose, but I'm unwilling to define the objectives, the goals, the specifications in this act."

All I'm saying is, let us put a definition in. If this isn't the one, if the cabinet-approved definition is not the one, let's have another one. I'm not wedded to this particular definition, but there must be one in the act or you're going to have to change the title of the act. There is no possible way that anybody can approach it any other way.

We've heard from the forest industry, and one of the things I was kind of intrigued about when we heard from the forest industry association was that they talked about the pursuit of excellence, something we've been talking about for a long time. When the minister was in Fort Frances, I told him I was disappointed that they weren't talking about excellence. Ontario has always been at the leading edge of economic excellence, environmental excellence, and we should always strive to be there. That is a goal in and of itself. Yet we have a minister and a government that are unwilling to put forward a definition they'll stand behind. They're unwilling to put their money where their mouth is. They will not back up the title of the bill with a section in the act, and that's what the real quibble here is.

As I said, I am more concerned that we have a workable definition in the act, workable principles in the act, not in some manual somewhere—in the act. If you can't do that, the government should withdraw not only its amendments but I think it should withdraw its bill.

Mr Mammoliti: I think Mr Brown is being somewhat repetitive on a number of points.

Mr Brown: Who, me?

Mr Mammoliti: You brought up some new arguments, Mike, the last time. I think you've made your position quite clear, that you want it in the act. You went one step further and said, "If it's not in the act, we want the government to withdraw the bill." The government is not prepared to do that. The government has made it quite clear and the minister has made it quite clear that we believe it might be in the best interests of everybody if it's not in the act. We've been pretty clear in saying that.

We're at odds here and we're at the point where it's almost time to vote. I would just say, let's agree to disagree and vote on it. If we're wrong, Mike, maybe later on you'll say, "I told you so." But at this point we disagree, and let's just agree to disagree.

Mr Wood: I don't want to prolong the debate on this too much longer, but looking at what we've brought forward in comparison to the Liberal motion, they're saying to change the purpose and just take the five principles out

of a document. We're saying we are willing to have a purpose clause, we're willing to have the definitions, and we've also spelled out the principles. In addition to that, we're saying the determinations are going to be in the manuals, rather than just taking five principles out of a document that, there's no doubt about it, was approved by cabinet but doesn't necessarily do the job.

Without getting into repeating myself, our feeling is that it covers it a lot better than the five principles the Liberal motion proposes to substitute for the purpose section that was in there.

Mr Hodgson: I have a friendly amendment to the Liberal motion, if I may be allowed.

The Acting Chair: It's a subamendment to the amendment.

Mr Hodgson: I move that the Liberal motion dealing with section 1 of the bill be amended by adding the following paragraph:

"6. The health of the crown forests is vital to the social and economic needs of many communities in Ontario."

This is consistent with the purposes set out in the act and the press releases around the act. I feel it would set in motion some type of land use plan for the province of Ontario that wouldn't be a cookbook approach. It would force the continuation of what's already happening throughout the province, but it might speed it up, to actually identify forest land base that would be productive for industrial forest lands and wild areas. As technology and information expands in the next 20 to 30 years, it would mean there would be compensation given for capital investment, which, as was mentioned by the ministry staff today, is envisioned under section 23 of this act, and that would be forests. You have to take into account what this bill is selling, that is, economic sustainability to meet the present and future needs of the communities in Ontario.

That's not as complicated as it sounds. It takes into account what Mr Bisson has mentioned, about how we must allow for future knowledge and future information and future data collection to play an integral part in the sustainability of our forests and the ecosystem as a whole.

Mr Carr: I'll be very brief, because Mr Brown agreed that he thought that would be a friendly amendment.

As Chris mentioned, it goes back to section 1 under the purposes, the objective "to manage crown forests to meet social, economic and environmental needs." I don't think I need to tell anybody, particularly Mr Wood or Mr Bisson, what economic viability means to their communities. Mr Wood, better than anybody I guess, realizes how difficult the situation can be in his community, where we came very close to an absolute disaster. I wouldn't be presumptuous enough to even know or talk about what his community has gone through.

But I would hope we put something in there that would deal with economic viability. There are many communities, which we all had an opportunity to see, that basically are surviving based on this industry, and we have to be very careful in dealing with it. It's a difficult

balance between all the groups. This is something that has gone on for decades. I think this amendment to the purpose clause would make it acceptable to most of the people in these communities, who live there, who work there, and hopefully are going to be there for many years in this industry that's viable.

Everybody on all sides of the House wants that. Obviously, we all do. I think this particular amendment would be helpful in terms of ensuring that along with all the other things, the economic viability exists that basically means whether those communities can be there. I don't want to be too dramatic. I think this is something all three sides could agree on as an amendment to the Liberal motion.

Mr Wood: This debate could go on for a long time, but we've made it clear that we are not supporting—

The Acting Chair: We are debating the subamendment.

Mr Wood: I am debating the subamendment. We've made it very clear that we are not supporting the Liberal motion that was brought forward, so I don't know how anybody would expect us to support an amendment to the Liberal motion. I just wanted to make it as clear as we could so there would be no misunderstanding.

Mr Brown: I unfortunately don't have the wording of Mr Hodgson's motion, but I want to indicate that we are very supportive of the principle Mr Hodgson's putting forward. The reason, in our naïve fashion, that we put forward the government's own definition was that we believed the government might support it; we thought the government might support what cabinet had to say. As I said, I wasn't firmly wedded to this particular definition, but it seemed to be the one government wanted and I thought I could be helpful by putting this forward on its behalf.

But now that Mr Hodgson has brought forward one that deals with the social and economic wellbeing of our communities, I don't see that any member of this committee would want to vote against such a fine amendment. I would indicate that we will be supporting that amendment.

The Acting Chair: Any further discussion on the subamendment presented by Mr Hodgson? Shall we take a vote on it?

Mr Brown: Mr Chair, we'll probably need 20 minutes.

The Acting Chair: We can adjourn now and come back tomorrow morning.

Mr Hope: Mr Chair, on a procedural question: You're saying that the clock starts on the 20 minutes now. There are five minutes left in the morning and then the vote will occur on this amendment, right?

The Acting Chair: That's correct.

Mr Hope: So the 15 minutes is now and then five tomorrow, and after five minutes we'll be voting on the amendment.

The Acting Chair: That's correct.

The committee adjourned at 1645.

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Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South/-Sud ND) for Mr White
Carr, Gary (Oakville South/-Sud PC) for Mr Arnott
Conway, Sean G. (Renfrew North/-Nord L) for Mr Daigeler
Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson
Hope, Randy R. (Chatham-Kent ND) for Mr Dadamo
Jamison, Norm (Norfolk ND) for Mr Mills
Miclash, Frank (Kenora L) for Mr Sorbara
Morin, Gilles E. (Carleton East/-Est L) for Mr Grandmaître
Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND) for Mr Wessenger
Wilson, Gary, (Kingston and The Islands/Kingston et Les Îles ND) for Mr Wessenger
Wood, Len (Cochrane North/-Nord ND) for Mr Morrow

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Beecroft, Doug, research officer, Legislative Research Service

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Third Session, 35th Parliament

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Troisième session, 35^e législature

**Official Report
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(Hansard)**

Tuesday 13 September 1994

**Journal
des débats
(Hansard)**

Mardi 13 septembre 1994

**Standing committee on
general government**

Crown Forest
Sustainability Act, 1994

**Comité permanent des
affaires gouvernementales**

Loi de 1994 sur la durabilité
des forêts de la Couronne

Chair: Michael A. Brown
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Président : Michael A. Brown
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Tuesday 13 September 1994

Mardi 13 septembre 1994

The committee met at 1008 in committee room 2.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Vice-Chair (Mr Hans Daigeler): I call the meeting of the general government committee to order to deal with Bill 171 clause by clause. I understand you made good progress in my absence yesterday, and let's continue in this spirit.

I understand there's an amendment on the table, moved by Mr Hodgson, with regard to the Liberal amendment to section 1 of the bill. Is there further discussion on the amendment by Mr Hodgson? We'll then vote on the amendment by Mr Hodgson. All those in favour?

Mr Michael A. Brown (Algoma-Manitoulin): Could we have a recorded vote?

The Vice-Chair: Recorded vote. All those in favour?

Ayes

Brown, Hodgson, Miclash.

The Vice-Chair: All those opposed?

Nays

Bisson, Dadamo, Mammoliti, Waters, White, Wood.

The Vice-Chair: The motion is lost, six to three.

Returning to the Liberal amendment, is there further discussion on the Liberal motion?

Mr Brown: I believe committee members had circulated to them a letter from the World Wildlife Fund that arrived yesterday. It speaks directly to the point we've been trying to make. Without reading the entire letter, I might précis it by saying that it suggests very strongly that if we do not include a definition of sustainability in the act, this act really should not go forward.

I've made the arguments before and I'm not going to be long making them again this morning, but it is essential, in our view, if you're dealing with a bill called "sustainability"—that's the title of the bill—that the bill be required to define sustainability in the act itself, not in some manual somewhere.

I've heard the government make the argument over and over that we can do this in a forest planning manual. It is in my mind and I think in the minds of every interest group and every individual who came before us, with the

exception of a few, that the act cries out for a definition and the act cries out for a definition within the act.

Therefore, I ask the government to look at this amendment. This amendment has been approved by cabinet. This is the wording that cabinet has used. It came from the Diversity report. It's quite a broad statement of principle. I believe it could be used for many, many years without any impediment on the management of our forests. It has been suggested that technology may change our understanding or that scientific knowledge in the field may change, but I cannot believe this definition doesn't encompass all of that and permit increasing knowledge to be applied.

I asked yesterday, and didn't get an answer from the government, if there is some scenario they can give me that indicates that as the state of our knowledge improves, this definition may be an impediment. I would be happy to hear it, but I have not heard from any government member who could give us one concrete example of where this definition would get in the way of better management of our forests. As the bill is entitled "sustainability," it seems to me we must define it.

Mr Frank Miclash (Kenora): We've gone through the arguments, as my colleague has indicated, and I'm just hoping that over the past 24 hours the members from the government have had a chance to take a look at the Diversity report, again, a document we know was approved by cabinet. I would just like to reiterate my support for this amendment.

Mr Len Wood (Cochrane North): Mr Brown has raised the question. There's no argument with the Diversity report, and you've taken five points from that report. The amendment we have brought forward adding to what is in the proposed legislation in Bill 171 we feel does a better job of dealing with this than to just take the five or six points from Diversity. You're saying to strike out the present section and insert that as the purpose.

We're saying our motion covers all the points in the amendment brought forward by the Liberal caucus. It covers everything in there. It gives a definition of sustainability and it also covers all the points you've raised in your motion. We feel it's broader and will do a better job of carrying this legislation into the years and years to come.

Mr Brown: I now move to quote from the World Wildlife Fund. Maybe members haven't read this, but I would ask the government members to look at this very carefully. It says in the fourth paragraph:

"Legislation which promises sustainability in the title

should define it and require its achievement. Bill 171 does neither. Instead it seems that sustainability is to emerge from a management planning process guided, to some extent, by the eventual application of a number of manuals now under development as well as local citizen committees and other measures, all reinforced by enough ministerial discretion to ensure that the act, in your words, 'will allow us the flexibility that's needed to properly manage the diverse range of forest ecosystems' and so forth. Ironically, Bill 171 seems to provide less certainty of stewardship than the existing Crown Timber Act, which is based on achieving a 'sustained yield' of timber."

That's our position. It's the position of virtually every group that has come in here. I have said I'm not wedded to the definition; I would be willing to accept the government's definition. But the government's definition cannot be in the manuals, the government's definition has to be in the act. Either that, or you should call it the Crown Timber Act and take "sustainability" out of the title. I'm not opposed to that notion either. I'm just opposed to the apparent hypocrisy of using a word you are afraid to define in the act itself.

The issue here is not the definition. As I've said before, I'm not generally convinced this is the perfect definition. I would be willing to live with the government's definition. The difference between the government's position and the position we are putting forward is, do you have the strength of your convictions or don't you? If you do have the strength of your convictions, I would be willing to take the principles Mr Wood has put forward. But they would have to be included in the act, not in a manual.

If we as legislators are to do our job, we are to instruct a ministry under an act. We are to act on behalf of all the people of Ontario, and the only way we can do that with any certainty at all is to put the words into the act. As legislators, I'm sure every one of us here finds out on at least a weekly basis of some regulation passed in the past two or three years that none of us ever knew occurred, because regulations can be changed. They're changed by cabinet; they're not changed by members of the Legislature. There are literally thousands of them passed a year; it's impossible for us to have any scrutiny over them. Manuals can be changed even more easily.

What we're suggesting is that if you believe in sustainability, if you believe the title of this act should be "forest sustainability," you should have the courage to define it, not in some way that can be changed at the whim of a future government, of a future minister, of a future cabinet. If you are going to change the change the definition of "sustainability" somewhere down the road, you should hope that a future government would have to come to the Legislature, to the 130 members who are elected to represent the people, and let it be exposed to the full light of day.

That's essentially the point we're making. If you can find among the various interest groups enough people to support your view of how this should be done, then go ahead and tell me, but our research, having listened for three weeks, all indicates that people want a definition.

I could sit here and I could propose—and we have chosen not to do that—definition after definition, in this section, of "sustainability." We could go through those briefs and we could drag out every definition of sustainability there is, but we have chosen not to do that. We've chosen to put forward one by the government and say it should be in the act. That's the issue. The issue isn't whether your definition, Mr Wood, is better than mine or mine's better than yours. The issue is, should it be in the act, where a committee just like this one would have to meet to change it, or is it one that can be changed up in the corner office here some Wednesday morning when people are totally unaware? Our position is that the Legislature should have the opportunity to debate any such definition.

1020

The Vice-Chair: Are we ready for the vote on the Liberal motion to section 1? I guess we are.

Mr Brown: Recorded vote.

The Vice-Chair: All those in favour?

Ayes

Brown, Carr, Hodgson, Miclash, Morin.

The Vice-Chair: All those opposed?

Nays

Bisson, Dadamo, Mammoliti, Waters, White, Wood.

The Vice-Chair: The motion is defeated, six to five. We are returning to section 1 as it is before us. Is there further debate on section 1?

Mr Wood: We have a government motion to section 1.1.

The Vice-Chair: We have to vote first on section 1. Is there further debate on section 1 as it is? Section 1.1 we will be discussing later on, because it's a new section. Okay, all those in favour? Opposed? Carried.

Mr Wood, you have a new section 1.1.

Mr Wood: I move that the bill be amended by adding the following section:

"Sustainability

"1.1(1) In this act, 'sustainability' means long-term forest health.

"Determination

"(2) For the purpose of this act and the regulations, the sustainability of a crown forest shall be determined in accordance with the Forest Management Planning Manual.

"Principles

"(3) The Forest Management Planning Manual shall provide for determinations of the sustainability of crown forests in a manner consistent with the following principles:

"1. Large, healthy, diverse and productive crown forests and their associated ecological processes and biological diversity should be conserved.

"2. The long-term health and vigour of crown forests should be provided for by using forest practices that, within the limits of silvicultural requirements, emulate natural disturbances and landscape patterns while minimizing adverse effects on plant life, animal life, water,

soil, air, and social and economic values, including recreational values and heritage values."

The Vice-Chair: Is there debate on this new section?

Mr Gary Carr (Oakville South): Similar to some of the concerns and questions raised during the Liberal motion, it centres on putting it in the manual versus the act. As I said yesterday, the difficulty we have with this particular definition is the fact that we can't seem to get agreement. Every time one word gets changed, another group would fall out in agreement. Everybody said there should be a definition, but most of the groups that came before us didn't even lay out a definition. They said, "Look back; we're not going to tell you what to do," which wasn't particularly helpful, quite frankly, when you're talking about wording that is very important to the whole bill.

In other words, if you look at the summary, most of the people came forward and said, "We need a definition but we're not going to tell you what it is." The reason I think most of them said that is that you can't have agreement.

What it comes down to is the trust factor, and I don't say that against this government, and it doesn't even pertain to this bill only. People are very concerned when things are left to manuals and regulations. They like to see things in legislation where it can't be changed easily because they do not trust any government to do the right thing. I suspect the government has said, as it's said on other bills, that doing it this way allows flexibility, and to some extent that is true.

I think, though, that if we have a bill, as we do before us, where we cannot get an agreement of what the definition should be, it's little wonder that we had, as we did as we went across the north, the people at Spruce Falls who said, "Don't pass this bill." The largest employer of Mr Wood's riding said don't pass it, Avenor, E.B. Eddy, the native groups.

If you'll remember, because I asked this question ad nauseam, "If you were me and you had to vote on this bill, how would you vote?"—I hear the chuckles. Many people were asked that. People, in spite of what the government might think, find it very reluctant to criticize the government because they have to work with it. Most of the people didn't just jump out and say: "It's a terrible bill. We hate you. Don't pass the bill." They were very reluctant to criticize, because they realize most of them have to deal with the government.

I think of the chap at Spruce Falls Inc who came on his own behalf. The company was very reluctant when I asked the question, "Would you pass it?" Most of them had about a two-minute response time before they finally said, "No I wouldn't." In spite of the fact that not only this government but all governments think people are prepared to jump on them, they find it very difficult in front of a committee to say, "No, I don't agree with this bill," particularly when they have to work with you. In private they may be a little more vocal and tell you exactly what their concerns are, but in public they find it, as a group, an association, very difficult to say, "No, we don't like this bill."

The reason the concerns were out there on this bill was because of the definition. They're very concerned about what it will mean, how it will be interpreted by a minister of the day. I'm sure, and I spoke with the parliamentary assistant, they're working with the groups to try and alleviate some of these concerns, but if you asked them, they felt it should be in the legislation.

The final point I want to make on this whole question—I asked this yesterday and maybe the parliamentary assistant will be able to answer it—is about the final government motion amendment. Do we have agreement from people like the Ontario Forest Industries Association? How many people have bought into this? You heard yesterday that I asked one of the ministry officials and he gave a very political answer. He said they like the fact that there's a definition, but I think we got out of it that they don't like this definition. Let's just be honest. Did they lay it out? Did the groups like that say they disagree with it? And where are we at with this?

At the end of the day, I understand that the final decision's going to have to be made by the minister and the ministry, and that may be what has to happen in light of the fact that we couldn't come to a consensus. Hopefully, the parliamentary assistant or one of the government members will at least assure me that there was consultation on this final definition; that even if there wasn't final agreement, we got as best a consensus as we could with the numerous groups.

That's the only question I think needs to be answered. You've come up with one and we know you have the votes to pass it. But I want to tell you, the people out there and myself are very reluctant, based on some of the concerns I shared with you this morning. What I would hope, because it is going to be through the manual, is that this discussion isn't going to end today. The one good thing about it not being put in the legislation is that we are going to be able to work with these various groups. I'm sure you will; I'm sure we'll hear from them if you're not. I would encourage the government to continue to make sure that the various groups out there are a part of this definition and that we continue to work with them. At the end of the day, if we don't, I honestly believe the communities that we're out there, all of us, trying to help could be hurt. I know no one wants to do that, I know the ministry doesn't want to do that, but you have to realize that people are very concerned about this government motion and the definition you're putting forward.

If the parliamentary assistant could answer a little about how the final outcome came, I think it would be helpful. After that, I guess we'll take a vote on it.

1030

Mr Brown: I have a number of questions of clarification for the parliamentary assistant. It says in 1.1(1), "In this act, 'sustainability' means long-term forest health." My first question relates to "long-term." Could you give me a time frame of what you intend to mean by long-term? It's rather vague.

Mr Wood: For ever and ever and ever.

Mr Brown: So in perpetuity.

Mr Wood: If somebody dies off, another one's born and they replace them and they just keep continuing having a population, and also continuing to have forests and trees in the ecosystem out there.

Mr Brown: The next word is "forest," which is not defined anywhere in the bill. I think we all think we know what forests are, but I wonder if you could tell us what you mean by "forest." Is it three trees somewhere, or what is it?

Mr Wood: Well, a tree is one thing out there in the forest. There is a large number of things that make up a forest, Mike: water, air, animals, insects, your whole system.

Mr Brown: Our problem is that we're having a little trouble understanding exactly what is meant by "forest" in this bill. Could you help me? Could you tell me how many forests we have in Ontario?

Mr Wood: I don't have the exact number at my fingertips.

Mr Brown: Is there an exact number somewhere?

Mr Wood: I'm sure there is. "Crown forest means a forest ecosystem or part of a forest ecosystem that is on land vested in Her Majesty in right of Ontario and under the management of the minister." That's a definition that is spelled out in the act under the definitions, 2(1).

Mr Brown: Yes, but that is a crown forest.

Mr Wood: We're dealing with crown forests here in this act.

Mr Brown: Then wouldn't it be better to be saying "the long-term crown forest health"? We're not dealing with the private forests, we're not dealing with the forests that happen to be in provincial parks, we're not dealing with forests in Ontario; we are dealing with specific forests, the ones that happen to be on crown land, and not even all the ones that happen to be present on crown lands. Would it not be better to be saying what you mean, which is crown forest health?

Mr Wood: You've raised the point.

The Vice-Chair: Have you finished?

Mr Brown: No, I'm just trying to wrap my little mind around all of this.

I wonder if you could indicate to the committee how difficult or what is the process for changing the Forest Management Planning Manual. What is the process one must go through to change the Forest Management Planning Manual once it's in effect? I'm talking about the actual legal process we go through.

Mr Wood: The drafting of the manuals right now is being done in consultation with all the stakeholders out there. If you're talking about a legal definition of what is required to change them, we're working on I believe the third draft of the manuals to comply with the legislation as it's there now, and I would expect that would be the process that would be followed in the future. If there are people saying the manuals don't meet the needs out there on the ground and they've got to be redesigned to meet those needs, there's going to have to be consultation with the professional foresters, whether they be in the private sector or with MNR or foresters with Environment. All

these people are going to have to be in consultation in redrafting them.

Mr Brown: I understand that. My real question isn't about the consultation process. If Mr Wood is the Minister of Natural Resources and he wants to change what's in a manual, how does he do it? Granted, we have consultations, although there's no mandate that says you must have consultations. We don't want to take this too personally. It's Mr Hampton who's the minister; I can almost bet you that 20 years from now Mr Hampton won't be the minister.

Mr Wood: That's the same as Lyn McLeod was replaced and Mike Harris was replaced and all these were replaced.

Mr Brown: Exactly; that's my point. What does the minister have to do to change a manual once there has been consultation? How do you do it? What's the process?

Mr Wood: I might have to get further updated, but my understanding is that it's not the minister who changes it; it's an upward movement from on-the-ground people out there demanding the change, the professional foresters and the people out there managing the forests on behalf of the government, no matter which government is in power at that time.

Mr Brown: I know, but somebody has to authorize that the manual actually be changed or there has to be a process. Who does that?

Mr Gilles Bisson (Cochrane South): Look at section 66 of the bill.

The Vice-Chair: Mr Brown, any further questions?

Mr Brown: I'm actually taking Mr Bisson's advice, which was to look at section 66. I'm trying to look at section 66.

The Vice-Chair: I asked because Mr Hodgson is waiting.

Mr Chris Hodgson (Victoria-Haliburton): I can wait. It's up to the Chair to allocate the time; as long as I get a chance to speak.

The Vice-Chair: I'll just try to be fair and not let you wait too long.

Mr Brown: I'm trying to speed-read this, but I'm still not sure how it actually gets authorized. Perhaps staff could tell us how that happens. This isn't a trick question. I'm just looking for the legal process, what actually has to happen.

Mr Wood: I think your concern is that it would be changed without anybody knowing about it. It's saying, "the manual or amendment is published by the ministry and available to the public." The public is involved in the consultation. That's on page 26, clause 66(7)(a). And clause (b) "the manual or amendment is approved by the regulations."

Mr Brown: Just so I can get this clear, the process is that there is a consultation which the government may believe to be adequate, and it's the government's decision whether it's adequate or it's not. Then the minister would have to go to cabinet with the redrawn regulation to have that manual changed. Is that correct?

Mr Wood: That language could be subject to interpretation by the courts or something, but it's saying:

"(a) the manual or amendment is published by the ministry and available to the public; and

"(b) the manual or amendment is approved by the regulations."

In terms of the procedure for changing regulations, it would be the same as any regulations being changed in any ministry, as far as I know. There's no special procedure. Not having been a cabinet minister to know what cabinet deals with in the procedure for those changes—

1040

Mr Brown: What I'm trying to understand is this. Once this set of manuals that we have today—I understand it's going through a consultation process at the moment, but once that's completed, once the government decides it is, and it is going to be the government that decides that, and those manuals are put in place, they are now what you do.

Mr Wood: Yes.

Mr Brown: If I wanted to change two words in a manual, does the ministry have to change the regulation, necessarily, for two words, or how does that work? This is an important question because I think people have to understand how this works.

Mr Wood: Subsection 67(1) says: "The Lieutenant Governor in Council may make regulations," and I'm sure he would change the regulations that had to be changed as well.

Mr Brown: So you couldn't change the words in a manual, two words, without having a regulation to change it? Is that the correct interpretation, Mr Wood?

Mr Bisson: The manuals are amended through the regulations.

Interjection.

Mr Brown: Mr Chair, I'm getting a number of answers here. I'm not sure which is the correct one.

The Vice-Chair: At this point the only answer is coming forward from Mr Wood.

Mr Wood: And I've given you what is spelled out in the bill.

Mr Brown: We can debate those sections later, but I think it's critical, as we look at this particular amendment you're putting forward today, to understand what kind of difficulty or ease a government, either now or in the future, has in changing what you suggest here. I think the point's been made by quite a number of members that the Legislature will in all probability not see these changes. What I'm trying to determine here is, what kind of process do you have to go through, what opportunities will people have to know that a manual has been changed?

If it's too difficult, that could be a problem because obviously the state of the art in forestry is going to be changing. On the other hand, if it's too easy, that could be a problem too in that it could change without anybody really understanding that it has.

We have to understand that a forest is not just about the timbering activities in the forest; there are a lot of

other things that go on out there. Maybe something that seems very logical to a forest company or a worker in the forest would not be seen to be a terribly happy circumstance to, say, a hunter. I am just trying to find out what the process actually is to change it, because that's the crucial part of our argument on this bill.

Mr Wood: The process you're looking for an answer on is covered under subsection 67(1), and the paragraphs go from 1 to 28. Paragraph 27 basically explains "approving a manual prepared under section 66 or an amendment to a manual," so the procedure is spelled out in the legislation. The Lieutenant Governor in Council may make regulations, and the procedure for approving a manual prepared under section 66 is spelled out there as well.

Mr Brown: So what you're telling me is that no words in a manual can be changed unless the regulations are changed. Is that what I'm hearing, yes or no? That's got to be categorical for me to know.

Mr Wood: I'm quoting to you what is in the bill, Mike. If you're saying you want a different legal interpretation or you don't read it the way it is, that's your choice, but these were drafted by the legislative clerks and they consulted with the legal people, I'm sure. They're drafted on that basis.

Mr Brown: Maybe I could ask legal counsel if he could tell me whether a change in the manual requires, necessarily, a change in regulation.

Mr Doug Beecroft: A change in the manual, even a change of one word, is of no effect unless it is approved under regulations. That's what 66(7) says. If the minister wants to change one word, he has to go and get cabinet's approval for that change to the regulations.

Mr Hodgson: We're dealing with the government's amendment. I'd like to make a couple of comments and then propose a friendly amendment to that, what I consider to be a friendly amendment.

The Vice-Chair: We'll see if it's friendly a little later on.

Mr Hodgson: First, to deal with Mr Brown's question about the definition of "long-term forest health," Mr Wood used the word "perpetuity." I'd just caution that there have been other acts, such as Bill 18 when they took certain private lands and added to them to Algonquin park, where traditional uses were guaranteed in perpetuity, but MNR has since limited that to a set number of years. So I'd just caution about using the word "perpetuity."

In terms of the idea of changing it to encompass only the crown forest lands, it's my understanding that this act also encompasses crown forests on private lands, under subsection 58(1). I need a clarification from the parliamentary assistant. If that's not referring to crown timber on private lands, then later on when we deal with that section, I'd like to address it. Right now, I'd like to have the parliamentary assistant tell me about subsection 58(1) because I believe that deals with crown forests on private lands, that there are numerous cases in northern Ontario that this act will deal with and that it's not just on crown lands that we're talking about. There are remnant agree-

ments from mining agreements and the homestead act and other things this act will affect, those property owners. We had a person who was affected by that come and present to us when we were up in northern Ontario.

The amendment that the government seeks I feel only goes partway. It adds to the purpose of this bill. Just for the record, I'd like to read into the record the purposes of this act, mentioned in the act and also mentioned in all the press releases and heralded as a great accomplishment, that we're going to have sustainability two ways, one for the forest ecosystem and the other for the economic viability of the communities that earn their living from forestry.

"The purposes of this act are," it says, and I'll just go halfway down, "to manage crown forests to meet social, economic and environmental needs of present and future generations." It's proactive, It's talking about economic sustainability. Therefore, this definition, as amended by the government, doesn't go far enough in meeting the purpose. I think the principles should reflect the purpose.

As I mentioned yesterday, this act makes the crown accountable as well for the maintenance of our crown forests, that ownership of those is by the people of Ontario. The people who go on to these crown forests or work in the forest industry, under section 52 of this act, will be fined or judged according to the definition of sustainability. That's how you will draw the line: "If you cross this line, you will be fined or punished. If you stay within this line, you'll be rewarded and be able to continue working." Under the new Environmental Bill of Rights, any citizen in Ontario will have recourse to holding the crown accountable in making sure this definition of sustainability is upheld.

1050

If the bill is to maintain economic sustainability in a positive sense, I think it should have the following amendment:

I move that subsection 2(1) of the bill be amended by amended by adding the following definition:

"'Forest health' means the condition of a forest ecosystem that sustains the ecosystem's complexity"—wait. I'm on the wrong one. I want to read mine.

Mr Bisson: That's ours. Talk about a friendly amendment.

Mr Hodgson: That would really be friendly.

I move that the government motion dealing with section 1.1 of the bill be amended by adding the following paragraph to subsection 1.1(3):

"3. The health of crown forests is vital to the social and economic needs of many communities in Ontario."

This is a principle that would be consistent with the purpose as stated in this act, and it would be a further reference to hold the ministry accountable so there's assurance to the people of Ontario, especially the communities that are vitally dependent for their social and economic wellbeing on a healthy forest. Therefore, I move that hoping it will be received in a friendly manner and supported.

Mr Carr: Obviously, this is something like the same

principles behind what we talked about yesterday in the Liberal motion. I think it's something everyone who appeared before this committee could agree with. Certainly all members, all parties, should be able to agree with that.

As I said yesterday, I don't need to tell the members from the communities involved, particularly the parliamentary assistant, who went through the period he went through with the situation at Spruce Falls, that communities live and die by this industry up in his area. What we are proposing here is fundamental to the principles of what the government says, and it's something that I don't think any group could disagree with, I don't think any member could disagree with, because the health of the crown forests is vital to the social and economic needs of many communities in Ontario. We saw many of those communities as we travelled. I think that's why we had such input from those communities, obviously the reason being because they live and die by what happens in the forest industry.

I think this would alleviate some of the fears that have been put forward by numerous groups that are concerned, going back to the issue of putting it in the manual versus the legislation. It would be a guide, that the government has already stated should be a given, to these communities.

Hopefully, the parliamentary assistant will go out on a limb and make a decision on this, because I can't see how anybody could vote against this motion. If they choose not to support it—I'm hoping the reason the motion similar to this, the Liberal one, was defeated was because they realized the Liberal motion wasn't going to pass and they were going to put their own amendment through. But if they do not support it, I hope there will be some justification, and I'd like to know who made the decision not to support this motion, because I can't see any of the members not wanting to. If it's somebody in the ministry, I hope they will let the parliamentary assistant know so he could explain to us here in this committee why something as fundamental as this motion could not be accepted by the government.

I would encourage all members to take a look at it. If they truly believe the things that have been articulated by this government, it should be done. It has nothing to do with the politics involved, because I can't see any political party not agreeing with the principles laid out in this motion. It should be supported by all members of this committee and become a part of this bill.

Mr Bisson: First of all, I find myself in a bit of a funny situation, because I agree on the one hand with what you're trying to do, Mr Hodgson—I don't have an argument—but I'm wondering if that's necessarily where we need to put it. Let me, as best as I can in my own muddled way, try to explain this.

If you look at the principles under subsection (3), where you want to add it, we're saying, "The Forest Management Planning Manual shall provide for determinations of the sustainability of crown forests...." Then, if you read 1 and 2 as it stands, we're saying, "Large, healthy, diverse and productive crown forests and their associated ecological processes and biological diver-

sity...." If you follow the drift of what 1 and 2 is doing—I'd ask you to read that—then go to your 3 and see, "The health of the crown forests is vital to the social and economic needs...." I understand what you're doing and I support it, but I'm not so sure that's where I would put it. I wonder if it would make more sense to put it under 1.1(2), and I'd be looking for a bit of direction from the parliamentary assistant on that.

It's motherhood. What you're basically saying is that a healthy forest is what we're striving for and that's good for the economic needs of our communities. I think all of us agree with that, but I'm not so sure that's where we need to put it. Would it have better weight putting it somewhere else, I guess is what I'm asking.

Mr Wood: I see that there's one different word in the amendment the PCs have brought forward, the word "community." In our amendment it'll be dealt with further on. The definition of forest health is that we're talking about the people of Ontario, communities, people. We're looking at giving a definition of forest health and suggesting that it be in another area of the bill where the definitions are spelled out: "crown charges," "crown forest," "designated purpose," "first nation," "forest ecosystem." This is where all the definitions are spelled out. We're saying it should be in that particular section. The only difference I can see in your amendment from ours is that you're talking about communities. All these communities have people in them, and we've used the word "people," the people of Ontario.

Mr Hodgson: What we're talking about in the principles is a guide to how the crown will be accountable. If somebody wants to know, say, in 30 or 40 years, "Has the crown done its job?" they'll go to the definition of sustainability, they'll look at the purpose of the act, and the principles back up the purpose. That's the guide for the staff and for decisions that are made relating to crown land.

In the principles we've got the ecological processes or the environmental side covered, and this new act will call for the creation of environmentally protected areas. What we also want in equal balance to that is the second side of this act's purpose, that is, to be positive about the economic wellbeing of the communities that derive their earnings from the forest. I see it as a healthy balance to have it right up front in the principles, not just as a definition that's providing for the needs of the people of Ontario. You can argue that some people enjoy looking at caterpillars and that that ecosystem would have equal weight with the people's needs in a northern community, the one-industry town that you represent, sir. Somehow, whatever decision the MNR made wouldn't be accountable to that community's economic and social wellbeing. I think that should be mentioned in the principles as a guide right up front for the decisions that are made in regard to crown forest management practices. That's why I'd like to see it in the principles.

Mr Wood: The trouble with caterpillars is that when you get them all over your pavement and track them into the house and everybody else's house and all that—they're not really that friendly about every five or six years.

Mr Hodgson: But it might meet the ecosystem's complexity while providing for the needs of the people of Ontario.

I see this as a way of adding accountability to the management of our forests.

Mr Wood: One of the concerns is that when you put everything into the purposes clause—I'm not a lawyer by trade, but some of the advice we've had is to be very careful about what you put into a purposes clause because this is the first thing the courts look at when there's a challenge to the legislation. The last thing we want is something in there that will disrupt everything in Ontario and everybody will be challenging it, of course based on their interpretation of the purpose.

1100

Mr Hodgson: That's exactly my point, that the only people who can't challenge right now are the people this bill's supposed to manage for: present and future generations' economic wellbeing. Other people can challenge under this act for environmental or ecological reasons, but economic wellbeing, unless it's in the principles and is followed up by defining what areas are going to be cut, and when they're not to be cut then there's compensation, which, as ministry staff mentioned yesterday, is allowable under this bill—I think it should be upfront.

Clearly, the press releases have said that's the objective of this bill, and it's stated in the purpose. I think the principles should reflect it. This is a principle I don't think anybody can argue with, that "The health of crown forests is vital to the social and economic needs of many communities in Ontario." Surely there are many members on the government side whose communities—you know this to be true, so I can't see the government voting against it when you have to go back to your communities and explain, "I voted against a recognition that healthy forests are vital to our social and economic wellbeing." Are you against that?

This act is supposed to positively make sure that the management of the crown forests will "meet social, economic and environmental needs of present and future generations." It's proactive for sustainability for the economic wellbeing and social wellbeing. I think that should have equal footing with yours, that "Large, healthy, diverse and productive crown forests and their associated ecological processes and biological diversity should be conserved." I don't see the two as conflicting.

But I know that if there becomes a choice and you go back to court—under the Environmental Bill of Rights anybody can challenge how we manage our forests. Somebody should have it in the act so they can say: "Yes, this was their intent. They wanted to balance how our forests were managed." That's why I think it should be in the principles. It's a friendly amendment to the definition as proposed by the government.

Mr Carr: I couldn't say it any better than Chris, but I realize what the parliamentary assistant is saying. That's precisely why we'd like it in there. If there's any court challenge, people need to know that we give equal weight to the economic and social concerns of these communities. We can't leave that out.

I appreciate, Mr Bisson—putting it in another section is a bit of a compromise and very helpful and better than nothing, but I think it needs to be laid out in the purpose. Because of what you said about legal challenges and so on, we need to give weight to these communities that live and die off the forest industries, so that if there are any court challenges—it's our duty as legislators to put this in so firmly that people in these communities know.

I understand that press releases written to go out into communities are done for reasons of keeping the public happy. But what we are looking at is the legal purpose of a bill. I'd think the members from these communities would like to have this in so that when we start talking about legal challenges, which, as Chris mentioned, may come up for any reason, the full legal weight of this clause is in under the purposes clause so the people of that community are protected, so their jobs are protected against some of the situations that may come up.

It needs to be there. If you firmly believe the press releases, as I know you do, then put it in there. Let's not say the legal people are afraid. That's precisely why it needs to be in there: If you leave it out, it will allow challenges, and when challenges come up the economic and social viability of the communities will not count if it is not in this part of the bill.

If you choose to leave it out, the members from these communities had better be very clear with the people in the ministry who are advising you to do this that you are leaving your communities open at some point in time—God forbid, and hopefully we don't need it—to some challenge which may come from any particular group. And Chris outlined some of the other difficulties we've got with the Environmental Bill of Rights and so on.

If it is not in the purposes clause, you are leaving your communities out to legal challenges that I believe should not be made. We should put it in the bill, and I cannot believe that any member from a community that has industries like we saw in the minister's own riding would not accept this. It's a bit of a compromise to put it elsewhere. I believe it needs to be in the purposes section and that we should support this.

Mr Bisson: Thank you very much. Again I would say what I said a little while ago in starting this off. I feel I'm in a bit of a funny spot, because the more and more I read your paragraph 3, the more and more I read it as being a very green piece of language. What you're saying is that the health of crown forests is vital to our economic needs, and follow me as I go through, because I'm not sure that's—is that what you're trying to say?

Mr Hodgson: Yes, it is, just to work it in.

Mr Bisson: I thought you were trying to put in a requirement that you can't do anything to effect the economics of an operation.

Mr Hodgson: That's what it will do if you recognize that. It's just a principle that you recognize.

Mr Bisson: The more I look at it, the more and more I'm being talked over to your way of thinking, but when I look at the principles, we're saying "The Forest Management Planning Manual shall provide for determinations of the...following principles:" and we lay it out in

1 and 2, and then you want us to add 3. If you read 1 and 2, they're very green things. Do we agree?

Mr Hodgson: Yes.

Mr Bisson: When I read 3 it's even greener than that. Paragraphs 1 and 2 are saying we have to manage our forests in a very green way. This says you have to manage it not only because it's a green thing to do, it's a smart economic thing to do. Is that what your intention is?

Mr Hodgson: That's right.

Mr Carr: I wanted to make that point but I didn't. I'll be very brief because I know we want to get on. That's exactly what we're saying. You people, Gilles and Len, know more than anybody else. If you talk to somebody, for example, in Len's riding, at Spruce Falls Inc, they more than anybody realize that the long-term viability of the forest is economically in their best interests as well. Spruce Falls Inc is now owned by everybody in the community, and the people who live and work there are now the owners of that company. The days are long gone when the perception was that some of these forest companies come in there to rape the forest, take all the resources out and then leave it and go away 10 years from now. The people who own that company, and I use them as an example, are people who want to live in that community, want to have their kids in that community 20 years from now. They realize it is not mutually exclusive that economic viability is the most important thing, because they realize that maintaining a healthy forest will do that.

That's why I think this particular amendment should be able to be accepted. Again, it should be in the purposes clause. What we're saying is that the long-term health is in the interest of the environment, the interest of the people of the community, the interest of the companies that are making the profits in that area. It's in the interests of the entire community that this particular amendment be accepted by the government. I hope they will seriously consider it, because that is what we're trying to do.

I think the people in these communities know better than anybody else that the long-term health of the forest is in the economic best interests as well as the best interests of the people of the community and in fact of the environment and the forests. I wanted to make that quick point to Mr Bisson because that is exactly what we're trying to do.

Mr Wood: I think what your amendment is saying is already covered in the purpose clause: "social, economic and environmental needs of present and future generations." If you look at the government motion to amend the definitions, "'Forest health,' means the condition of a forest ecosystem that sustains the ecosystem's complexity while providing for the needs of the people of Ontario." That's in the definitions, and that in our opinion is where it should be, where you're explaining the health of crown forests. We don't have a problem with putting the word "crown" in there, because that is in the title of the act. Mike had asked, why isn't the word "crown" in there? It's the Crown Forest Sustainability Act.

That's the argument. These motions were both brought forward today, and it's quite obvious they were both thinking of the same thing, that there should be a definition of forest health. You've brought forward one idea suggesting it be in the purpose. We brought forward an amendment saying it should be in the definitions.

1110

Mr Hodgson: In the interest of time, if the parliamentary assistant is saying we're in agreement, why don't we agree to my amendment now and then we don't have to deal with theirs later on, if they're the same.

Mr Brown: Nice try.

Mr Hodgson: I want to stress that this bill is being sold as economic and social viability and sustainability for the long term for a lot of communities in Ontario. To be up front with that, one of the principles of the bill that supports the purposes of the bill should be a recognition of the importance to the social and economic needs of many communities in Ontario.

To put it in later as a definition, that "Forest health" means the condition of a forest ecosystem that sustains the ecosystem's complexity while providing for the needs of the people of Ontario—if somebody challenges this under the Environmental Bill of Rights on the management of crown land, how would a judge say this somehow recognizes that economic and social factors should be taken into account when you're drawing up the manuals for managing the forests of Ontario? But if you put it in the principles, they could very clearly say, "This was the intent of the framers of this piece of legislation, that it's recognized that crown forests are vital to the social and economic needs of the community."

That's clearly set out in the purpose of the act, it should be in the principles, and it's been stated in the press releases since February as one of the reasons for this new act, so I can't understand why the government would have a problem. If they're saying it's the same as their amendment on section 4, in the interest of time they should approve mine because it's on the floor, and then we can skip right over your amendment later on, if we're concerned about efficiency.

Mr Brown: It's very similar to a Liberal amendment, which has since been defeated, regarding this section. What Mr Hodgson is doing is commendable. I think what he is trying to do is to place this act in the proper perspective, making sure that the human impact on the ecosystem and human activity are recognized to be part of an ecosystem. That's important. It's important to be stated maybe separately.

When I read the present paragraph 2, "social and economic values," just that phrase, it can speak to a provincial economic interest. I think all members know that a provincial economic interest is not necessarily a community economic interest. I think we all see that daily in our constituencies as we meet with constituents who are unhappy about some provincial policy which may or may not be for the greater good for the province of Ontario, but sure as heck isn't very good for my little community that I happen to live in.

What Mr Hodgson is attempting to do is to recognize

that communities are important and economic activities are important in communities. Because of the awkward structure of this bill—this is really the Crown Timber Act and we look at it specifically from that viewpoint. Believing this is a timber act, we're always looking at it from that perspective. But this could be—and Mr Hodgson would understand, being from the great tourist area he represents—a community tourist operation that is being impacted by a forestry operation; I think that would be fair to say. It could be that the forest itself is being managed properly from a timber perspective, that we're going to renew it and everything is going to be just fine 70 years from now. But a person or company operating the resort in that neighbourhood is going to be impacted very significantly by that operation.

That is quite different from what we see you saying in the principles you're putting forward, and it comes from looking at this act as a timber act. You say all the right things about it, but you look at it from this very narrow timber perspective rather than looking at it from the overall economic and social perspectives.

So I'm suggesting—and I believe yesterday Mr Hodgson, at my suggestion, offered that amendment—that this amendment does place human values, particularly community values, at the forefront. I don't think the wording you have here does that. That's my problem, and I think it's Mr Hodgson's and Mr Carr's and Mr Micalash's and a number of other people's problem with not explicitly stating either this amendment or one very similar to this amendment that the government might find more acceptable.

What the government might want to do is ask that this section be stood down, if you're unhappy with this particular wording of this particular amendment, while you consider how you can take the point Mr Hodgson is making and incorporate it into your principles. That's a suggestion you might want to think about.

Mr Wood: I've listened to the arguments coming forward. It seems we're down to arguing over "communities in Ontario" versus "people of Ontario," and whether it should be spelled out in the definition or whether it should be in the purposes. From the consultation we've had out there, we felt the words "people of Ontario" would take in the people in those communities rather than just saying, as your amendment says, "the communities in Ontario," and that it should be in a definition of forest health. You're saying the definition should be in the purposes.

Mr Hodgson: Mr Chair, I'd be agreeable to a sub-amendment from the government to change "many communities in Ontario" to "the people of Ontario," as long as it's in the principles section, if that's what he is suggesting, and then we can vote.

The Vice-Chair: Are you withdrawing your amendment?

Mr Hodgson: No. I'd be willing to have a sub-amendment to my amendment.

The Vice-Chair: Right now, we have one amendment before us, and that's your own.

Mr Brown: Actually, I would have a problem with

the subamendment because I think the community is pretty important to what we're talking about here. The values and importance, both social and economic, of a community are often different from the grand picture: "Big Brother is doing it for your own good." We've heard that a lot of times before. That's why I like the wording you've got in this section. If you change it to the wording the government—

Mr Hodgson: The other wording does half the job.

Mr Brown: I'm not so certain it does even half the job; it may negate what we're trying to accomplish. Again I come back to the suggestion that it's important that this notion be put in the principles of the bill and that the government might want to stand this down while we think about it for a few minutes.

Mr Wood: We'll take adjournment for a few minutes.

The Vice-Chair: The committee stands recessed for five minutes.

The committee recessed from 1120 to 1133.

The Vice-Chair: The committee continues its discussion of clause-by-clause. Is there further debate on the proposed amendment by Mr Hodgson?

Mr Hodgson: If I could say a few words, there's been some discussion before on this amendment that they agree with the content but they wonder where to put it. Some people say it should be in the definitions section and I'm proposing it be in the principles section. We on this side are trying to help this bill and be consistent. We propose that it be done in both. If everyone's in agreement with the intent and we're just quibbling about where it's to be put, I'm agreeable to put it in both. We can put it in the principles and we can put it again in the definitions, and then it'll be very clear for future generations to see that our intent was to have a balanced management approach to the crown forests so the people of Ontario and the communities of Ontario can benefit socially and economically. That's a friendly amendment.

The Vice-Chair: Of course, what we're talking about is the amendment that's before us. Any further debate?

Mr Wood: I understand exactly what the Conservative caucus is suggesting, that it should be in both sections, the definitions and also the purposes. I'm still not clear in my mind that that's necessary. If we look at the amendment they brought forward and then a further amendment to the amendment that has to be added—at this point I'm still looking at our amendment that would deal with it and would give the same strength as what is being proposed when you talk about definitions. What we're suggesting is that it would be under 2(1) instead of 1.1. At this point, even though there's not that much disagreement about what we're trying to achieve, we feel that the amendment we're bringing forward later will address the concerns of the Conservative caucus, that the language there would deal with that. I know Mr Waters has comments he wants to make, and I might have further comments before it comes to a vote.

The Vice-Chair: Gee, I thought we were almost finished with this speakers' list, but I now have Mr Waters, Mr Hodgson, Mr Brown and Mr Carr.

Mr Daniel Waters (Muskoka-Georgian Bay):

Having had a couple of minutes to reflect on this, I looked at it. Before, I had looked at the proposed PC motion in conjunction with the government motion, and now I'm sitting down and I'm looking at the act. Section 1 of the act, to me, covers what the PC motion says, and in addition to that you're going to have section 1.1, is my understanding.

If you look at what's already in the purposes clause, it says, "The purposes of this act are to provide for the sustainability of crown forests and, in accordance with that objective, to manage crown forests to meet social, economic and environmental needs of present and future generations." That's what's going to be in the final bill, so I don't see why you're asking for this. You're asking us to repeat it.

Mr Carr: Under "sustainability."

Mr Waters: But it says "sustainability" at this time. It already says "sustainability," and it says, "with that objective, to manage crown forests to meet social, economic and environmental needs." I see a balance, that you can't take social or you can't take economic or environmental as an individual concern and bring that forward and say, "You can either cut or not cut." You have to look at all three.

Mr Carr: What's the problem with putting it in again?

Mr Waters: How many times do you want to repeat it? That would be my answer to that question, Mr Carr.

Mr Hodgson: The whole purpose of this amendment is that in the purposes it sets out as the objective "to manage crown forests to meet social, economic and environmental needs." Then we define sustainability to mean "long-term forest health." Then we have the determination, and then we have the principles which are going to guide this act. The principles should be consistent with the purpose. But the first two paragraphs of your principles meet only half of equation and they minimize the economic impact.

I'm saying this act is to be proactive for the economic and social aspects of these communities in the present and for the future. Therefore, to be consistent with the purposes—that's why it's mentioned at the top—it should also be mentioned in the principles. They should be consistent with the first part of the section. That's why I'm asking that it be repeated in 1.1(3)3.

In response to the parliamentary assistant, that we're in agreement but it has the same weight in another section, with all due respect, I would like to get legal counsel's opinion on that, on whether there's a difference between having it in the principles or in the definitions. If there's no difference, I suggest we do it in both; if there is a difference, we should do it in both just to protect ourselves.

Mr Beecroft: Section 1 of the bill governs the whole bill. Every provision of the bill should be interpreted in accordance with section 1. If there's any legal issue that arises on any provision of the bill, the purposes section, section 1, is available to whoever has to interpret it, whether it's ministry staff, whether it's the court, to assist them in interpreting it.

This particular provision deals specifically with the Forest Management Planning Manual. It says, "The Forest Management Planning Manual shall provide for determinations of the sustainability" in accordance with certain principles. It's a more specific provision, directed specifically at that manual.

Mr Hodgson: That's exactly my point. That's why it has to be in there to guide the manuals on how we manage the crown forests, to act as a guide. It's been stated by the government, it's been stated in the purposes of this act, that this is sustainability on two different fronts: one is the whole forest ecosystem and the other is for the economic and social wellbeing of the communities in the present and the future. That's been stated time and again by the government, and I'm just asking that that be put in the principles that are going to guide how the manuals are drawn up and hold the ministry accountable.

1140

Mr Brown: I agree with what Mr Hodgson is saying, that this is an important amendment to place the social and economic needs of many communities in Ontario in context.

One of the goals of this bill is to sustain those communities; at least that's how I understand this bill. Again it comes back to the fact that this is a timber bill, a timber management bill. It isn't a forest management bill, no matter how it's dressed up. It's about timber and we see everything from that perspective. If you go through this bill and compare it to the terms and conditions of the timber management EA, you'll find that most of it is somewhat similar. The only new section has been passed in Bill 160 already, I think supported by all three political parties: the setting up of the trusts for the sustainability of funding to forest renewal and forest activities through the futures fund.

But as I read this, I'm wondering—this is a question to Mr Hodgson—if he is saying exactly what he means. I'm wondering if it's somewhat backwards. Chris, is what you really want to be saying, "The social and economic needs of many communities in Ontario is vital to the health of crown forests"? I'm just trying to determine your intent. Is what you're saying that human activity, social and economic activity, is a component of a healthy forest and we need that to have a health forest, or are you—I'm just trying to understand what you're putting here.

Mr Hodgson: No, it's fairly clear. When you're managing public lands, you can manage them for different aspects of the ecosystem and you can also manage them to take into account the economic and social wellbeing of many communities. This is just a principle, that "The health of crown forests is vital to the social and economic needs of many communities in Ontario." This will guide how the manuals are drawn up and how you implement forest management plans in Ontario.

It's a truism that the health of the crown forest is vital to the social and economic needs of their communities, and when we're drawing up the manuals on how the forests around Kapuskasing, for instance, are to be managed, that would be given equal weight to paragraphs 1 and 2 of the principles, which cover other aspects.

Mr Brown: We come back to my concern that we've been expressing all the way through, that we have a timber bill here before us and it's not what the government bills it as.

Our idea was to have an umbrella bill that talked about sustainability, and the various aspects I think could have been a timber act, could have been the Game and Fish Act, could have been some amendments to the Provincial Parks Act. There could have been quite a series of what the government might want to have called sustainability acts, but under the umbrella of sustainability.

What we have here is an act that deals with timber and we're trying to take the timber and move it off into some way of using timber to manage the entire forest. Yes, we should have regard to a bunch of other values, but really what we're doing is managing timber.

Coming back, I reiterate our support for Mr Hodgson's amendment. I think it's helpful. I can't believe the government would have any problem putting it in the section that is only to be used in interpreting the forest planning manual. The government hasn't been very convincing, to me, about why they don't want to include this section.

Mr Bisson: We're going to help you.

The Vice-Chair: Mr Carr has proposed to reverse the speaking order. He will cede his spot to Mr Bisson.

Mr Bisson: Thank you very much, Mr Carr. I'm going to make you happy. We hear what you're trying to do, Mr Hodgson, with your motion. Quite frankly, we don't have a big problem with it, but it comes back to what I was talking about, that maybe we're not doing in the right section of the bill. Bear with me.

What we're doing under principles is saying "The Forest Management Planning Manual shall provide for" these following determinations. If you go to subsection 66(2) of the act, there's going to be an amendment put there already. We're going to be saying "The Forest Management Planning Manual shall contain provisions respecting" the following principles: (a) and (b), and we suggest you put this as (c), which would be the best place to put it. It would do exactly what you want, because that principle that's enunciated in the purposes clause is driven through the forest planning manuals, and we are going to define that under clause 66(2)(c).

What we would be saying is that the Forest Management Planning Manual shall provide for the determination of the sustainable crown forest, in the amendment the way it is. We would then take your amendment to our motion, which we see as friendly, and would move it over to 66(2)(c). That's what would guide the forest planning manuals in drafting and how they have to be interpreted and what they mean, and it would do exactly what you want it to do.

Mr Hodgson: I'd like legal counsel's opinion. If somebody challenges this act, would putting it in 62 have the same weight as where it's proposed now? If it's the same, why don't we do it in both?

Mr Beecroft: I'm not sure I understand Mr Bisson's proposal. The opening words of subsection 66(2) are "The Forest Management Planning Manual may contain

provisions respecting,” and I’m not sure I understand what you propose clause (c) would say.

Mr Bisson: Let me explain. The government amendments are yet to come, and there is an amendment to subsection 66(2). Subsection 66(2) will read, “The Forest Management Planning Manual shall contain,” so it’s not “may.” Now when the planning manuals are put in place, these are the principles the planning manuals have to be driven by. By taking his 3 and putting it there, it basically does what he wants it to do.

If you go back to 1.1(3), the way I would explain it is this: What section 1.1 does is that you have the purpose clause. The purposes clause itself, as it reads, and we agreed, is, “The purposes of this act are to provide for the sustainability of crown forests...to meet the social, economic and environmental needs.”

Then we go on to define that a little further under section 1.1: “‘sustainability’ means long-term forest health.” Then we give determinations by which we can measure how we’re going to achieve that, because we need to be able to measure that; we want to be able to quantify, to a certain extent.

Then we set out the principles by which we’re going to have that determination. In the principles, we’re saying that’s going to be done through the Forest Management Planning Manual. If we go to subsection 66(2) and we take Mr Hodgson’s motion and we put that as (c), it basically does what he wants it to do, and it would make a lot more sense putting it there.

My fear is that if you put it in both, if you say we’re going to have 1.1(3)3 and we’re going to do it again under 66(2)(c), it’s putting more words into the bill than really need to be there. My view, and this is just a legislative framework, is that the more you put into a purposes clause, the more you can make it confusing. That’s why it would be much better just to try to leave the purposes clause the way it is. The purposes clause is set up in order to give you determinations about how you reach sustainability and how it works so you can measure it. We do that through the Forest Management Planning Manual, and under 66(2)(c) we would add that clause.

1150

Mr Hodgson: I still haven’t got the answer about whether there’s a difference under the law between what’s being proposed.

Mr Beecroft: The effect of your motion is to say that the manual’s provisions about how to determine sustainability have to be in accordance with certain principles. The amendment Mr Bisson is talking about would say that the manual shall contain provisions respecting something. Your amendment is saying the manual has to be consistent with certain principles. His amendment would say specifically that the manual shall contain provisions respecting something. I’m not quite sure I know exactly what words you have in mind for clause (c), but—

Mr Bisson: So the answer is yes.

Mr Beecroft: There is a difference between the two motions. Which you prefer is up to you.

Mr Hodgson: There is a difference. Right. What I’m saying—

The Vice-Chair: I’m sorry, Mr Hodgson, but Mr Bisson had the floor. He asked you a question and you told him he had the floor back.

Mr Bisson: I’m not going to belittle it. We’re prepared as a government to entertain the principle Mr Hodgson has put in his motion. It is our view that this principle we agree with, I think all parties agree with, and we’re prepared to do it under clause 66(2)(c).

Mr Carr: I thought we had it. I believe that what we’re saying is as important as 1 and 2. If you believe that 3 is as important as 1 and 2, it should be in the principles. If you don’t believe it, put it anywhere else, but we cannot compromise under the principles. I think paragraph 3, which we are adding, is as important as 1 and 2 under the principles.

Let’s make no mistake about it. When we get to “Forest Management Planning Manual” under the definitions, it says it “means the Forest Management Planning Manual prepared under section 66 and approved by the regulations, including amendments to the manual approved by the regulations.” This is going to be the strength of the bill. This is where all the work is going to be done, notwithstanding the purposes clause, I believe, and that’s why believe it is so important.

In the Forest Management Planning Manual, if you’re going to lay out principles—this is where I think the actual work is going to happen. If you believe in principles 1 and 2 and don’t believe in 3, don’t put it in there, but don’t tell us 1 and 2 are important enough to be in principles but 3 is not. You can’t have it both ways. If 1 and 2 are important to be in the principles, 3 should be as well. If you don’t believe it’s as important as 1 and 2, don’t put it in, but don’t try and put it in other sections. Forgive me, because I don’t want to be confrontational, but it does not do it.

We have some waving here, so I’ll defer to you. It reminds me of school, the kid who had the answer.

If you believe it’s important, put it in there. If you don’t, then don’t con us and say it’s part of the principle, because it is not.

Mr Brown: As we go through this bill and went through the hearings, it seemed to me that one of the important things the government was trying to talk about and believed was important and indeed was compelled to do through the timber EA terms and conditions was to set up community advisory committees. I thought that was one of the basic tenets of this bill, that it was reflecting what the timber EA said. Mr Hodgson puts an amendment that just strengthens the importance of communities in the bill, and all of a sudden the government has a problem with that. Again I’m confused about why the government has trouble doing what the government has already indicated it will do.

Mr Hodgson makes a good point. I think having this in the principles of the Forest Management Planning Manual is important for the interpretation. As we all know in this business, what courts end up doing to legislation is not always what we intend, and we should take every safeguard to make sure the communities are important here and that the wellbeing of people is important here.

As the government has been so adamant that it's following the timber EA's terms and conditions in terms of community involvement in these decisions, I'm having some difficulty at this point understanding the reluctance of the government to put that in the principles of the Forest Management Planning Manual. It puzzles me.

If there's a problem with the wording, if there's some word in there that's giving them difficulty, they should say so. Maybe we can work out a wording that says the same thing but doesn't cause whatever offence Mr Hodgson's wording appears to be causing the government; we can work that out. But I think it needs to be part of the principles.

Mr Wood: I'll try to clarify some of the confusion there may be in Mr Brown's comments. I'll go back to what transpired about an hour ago. There was a question about whether there's been broad public consultation on what we are proposing in our amendment. Yes, there has been. It follows along the lines of the Diversity report. It follows along the lines of the policy framework. It addresses the environmental assessment concerns. The advice we've been getting is that the amendment we've brought forward doesn't necessarily need the addition that the Conservatives have brought forward, provided we give a definition of what forest health is, and as Mr Bisson said earlier, we address the concerns of the Conservative caucus in the manuals in terms of communities. Our concern is that we want "the people of Ontario," and you're saying "communities" and then you're saying, "I'll bring forward an amendment to put people in those communities to address that."

We feel that our amendment, along with a further explanation, under the definitions, of "forest health," and with the understanding that we will address your amendment under section 66 on the manuals, and as the purposes clause has already been voted on and accepted—I've just explained that there has been broad public consultation on the government motion we've brought forward. I think during the policy framework we consulted over 3,000 people.

In bringing forward our amendments, there was a lot of dialogue with professional foresters, and the advice they're giving us is: "No, you can't satisfy everybody who comes in front of the committee, but what you have addressed in your amendment will address the concerns. You haven't left anything out" in terms of the studies that have been done, the Diversity report, the policy framework, the environmental assessment and the consultation that has taken place prior to drafting the legislation, during the second debate on the legislation, during the public hearings that have gone on, and at the end of the public hearings, the consultation that took place in the drafting of the manuals, the regulations, the feedback coming from not just a handful of people but hundreds of people out there advising on what to do.

I don't know how much advice the Conservative caucus has done and how much consultation they went into before they brought forward the amendment, but I know what we have done as the government caucus.

The Vice-Chair: That will conclude the discussions for the morning.

The committee recessed from 1200 to 1405.

The Vice-Chair: We are debating the amendment by Mr Hodgson to the new section 1.1.

Mr Mclash: I spent the last two hours going over what we were looking at just before the lunch break. I was taking a look at what Mr Hodgson proposed, reading it over and thinking that it might read better and maybe we could get the government folks on side if we were to say, "The health of crown forests is vital to the social and economic wellbeing of many communities in Ontario." I think that would change the context of it a bit, yet not change the meaning. I'm suggesting that as a friendly amendment.

The Vice-Chair: A friendly amendment to Mr Hodgson's friendly amendment. If he wants to change that, of course it would be up to Mr Hodgson, but Mr Brown is next.

Mr Brown: I thought Mr Mclash had made a motion.

Mr Mclash: Sorry. I move that we change the wording from "economic needs" to "economic wellbeing."

The Vice-Chair: I'm advised that you cannot make an amendment to an amendment. Unless Mr Hodgson integrates this into his own amendment, you will have to wait to make your own amendment later on.

Mr Brown: Maybe we can hear from Mr Hodgson on this one.

The Vice-Chair: As Mr Brown is next, he would like to hear from Mr Hodgson, if he wants to speak.

Mr Hodgson: Thank you very much, Mr Chair, for your generosity.

The Vice-Chair: It's all Mr Brown's doing.

Mr Hodgson: Thank you very much, Mr Brown. I stand corrected.

Mr Brown: You're welcome.

Mr George Mammoliti (Yorkview): Those halos are going to fall round your neck and choke you.

Mr Hodgson: I'm glad to see that Mr Mclash spent his two hours productively. "The health of crown forests is vital to the social and economic wellbeing of many communities in Ontario." Is that correct? I'm agreeable to that change, and I'll repropose it.

I move that the government motion dealing with section 1.1 of the bill be amended by adding the following paragraph to subsection 1.1(3):

"3. The health of the crown forests is vital to the social and economic wellbeing of many communities in Ontario."

The Vice-Chair: Further discussion? Did Mr Brown still want to speak? I have Mr Carr next.

Mr Brown: I'll yield to Mr Carr.

Mr Carr: You know, I forgot what I was going to say.

The Vice-Chair: Then Mr Wood is next.

Mr Carr: I was just teasing. It was a train of thought for Gilles, actually, so I'll pass.

Mr Wood: It goes back to the discussion we had

before lunch, and I'm not going to go on too, too long. The PC motion is bringing forth an additional section that we felt would probably be better in subsection 66(2). Chris has brought forward an amendment talking about many people in the communities of Ontario. Now we have a further amendment being brought forth saying—

The Vice-Chair: No, there's only one amendment before us.

Mr Wood: That was the discussion we had before, that he wanted the word "people" in there, even though he hasn't spelled it out in his written amendment. In our government motion, we're saying we want the word "people" in there. The whole discussion is centring on how we talk about communities, how we talk about people in communities, how we talk about the wellbeing of people in communities, and whether it should be addressed in 1.1(3)3.

Our concern is that, yes, we're going to have to deal with that issue, but it should probably be dealt with under a different section, section 66. Nobody disagrees that we have to address this in there, but it doesn't have to be addressed in the section that has been proposed in the PC motion to amend our main motion to amend the legislation.

The Vice-Chair: Is there further debate on this amendment or can we have the vote?

Mr Hodgson: I just want to remind the committee that this is an amendment to the government amendment, a friendly motion. If the government's saying they agree with this and they're going to put it into section 62, I still don't understand why they wouldn't want it in the principles up front so everyone in the communities and the public at large can take a look and it says clearly, yes, this is the purpose of the bill, and the principles follow the purpose, and that's going to guide how the manuals are drawn up. That's how the bill has been sold in the press releases. I feel we could have it in both places. I do thank the government for putting it in the section they referred to earlier and I look forward to seeing that, but I hope they would pass it in this section as well.

The Vice-Chair: Are we ready for the vote on the amendment? All in favour?

Mr Carr: Recorded vote.

The Vice-Chair: Recorded vote.

Ayes

Brown, Carr, Hodgson, Miclash, Morin.

Mr Hodgson: Somebody's opposed to this, against the wellbeing of communities in Ontario?

The Vice-Chair: All those opposed?

Nays

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: The motion is defeated.

We're now returning to the government motion.

Mr Wood: The reason for the amendment is that groups wanted sustainability defined within the act and it was also recommended that the principles from the policy framework be included. We feel that the motion we

brought forward does this, that it clearly spells out what our definition is.

It's a new section. When we're talking about sustainability, we're directing it to be by the Forest Management Planning Manual. I think it addresses the concern that there wasn't enough definition in the act. By adding this new section, we feel that it's there. The definition will be also in the manual.

We've had broad public consultation with this particular motion that's been brought forward. It incorporates the principles from the policy framework and the Diversity documents, and these are documents and consultation that have been out there broadly, with well over 3,000 people. We've also had consultation with a large number of people, in bringing forth this motion, over the last 10 days, since public hearings were finished.

Mr Bisson: I would basically say the same thing. We've had lots of discussion on this, so let's move on to the vote.

Mr Miclash: I'm having a hard time with what the parliamentary assistant is saying when he says "broad public consultation." I sat in the hearings for three weeks and heard a countless number of groups—I think more than 50 groups—say there had to be a definition of sustainability in the act. When he talks about broad public consultation, maybe I was missing something when we heard about all those people telling us that this definition certainly had to be in the act.

Mr Wood: In our government motion, if you look at it, "In this act, 'sustainability' means long-term forest health."

Mr Miclash: "For the purpose of this act and the regulations, the sustainability of a crown forest shall be determined in accordance with the Forest Management Planning Manual." Then it refers to the manuals in terms of the definition of sustainability.

Mr Wood: Yes, there are two definitions. One is in the act, that "sustainability means long-term forest health," and then it's in the manuals as well, following along the lines of the policy framework for sustaining forests and the Diversity documents, the concept of biological diversity and silviculture and the whole bit. It's all covered in there loud and clear, as far as I'm concerned.

Mr Carr: This whole issue came up, and realizing there was not an opportunity for consensus, maybe the parliamentary assistant could tell us the names of the groups that now support this definition, if any. Are there any groups that you can say support your definition? I don't want to get into the tricks we played with the other chap, who said they wanted a definition and tried to make it like, "Maybe you'll like this definition." I want to be very clear. Are there any groups you can name that like this definition? Of all the groups that came forward, who can you say likes this as is?

Mr Bisson: The friends of Gilles Bisson.

Interjections.

Mr Carr: It's a serious question.

Mr Wood: I haven't answered yet. We were on the telephones consulting with a large number of people,

asking: "Will this satisfy the concerns out there? Are we going too far away from the objectives and principles in the policy framework?" The answers came back loud and clear: "No, what you've incorporated in this particular thing addresses those concerns. It's condensed it down, but it still covers the main principles and objectives of the policy framework and the Diversity documents that are out there."

As Mr Brown mentioned earlier, it's based on cabinet approval of the policy framework. It's all incorporated in there and, yes, the groups have got feedback on that. We've consulted with them.

Mr Carr: I don't want to put you on the spot, but I will. In your own area, Spruce Falls Inc was very critical. Do they agree to this one?

Mr Wood: It depends on who you're talking to from Spruce Falls Inc.

Mr Carr: Kent Virgo was the official voice that day; let's use him. I recognize there are 800 people there, Lord knows, but the official voice coming out, surely—what does Kent Virgo say?

Mr Wood: I haven't talked to Kent Virgo on this, but I've talked to Dave Goss, who is his immediate boss, and I've talked to Frank Datori, who is the chief financial officer of Spruce Falls.

Mr Carr: And they endorse this? They say this is good?

Mr Wood: There is not so much concern with this as there is with—they raised tenure.

Mr Carr: To cut through it, we can safely say there aren't people who say, yes, this it. We're still in this area. I recognize that at the end of the day you have to, because Lord knows you're not going to be able to get a consensus to please everybody. I just want to know if we had it, and I want to know very clearly. I sense we don't. We still haven't done it, right? There isn't a consensus now that this is final? There's still disagreement, and they haven't said, "Boy you've really finally done it, this is it," for this motion, right?

Mr Wood: This is generally supported out there by a large group of people, Mr Carr. We're always going to have the problem of sustainability. Do we come up with a worldwide definition of sustainability? Do we use a federal Canada sustainability definition? Do we use an Ontario definition, a northeastern definition, a north-western definition, or what is sustainability in this particular forest? There are probably 100, 140 forests we're talking about. The professional foresters we're talking to are saying they need the ability to be able to adopt something out there, and let's not tie their hands. That's something that's not going to work.

1420

Mr Carr: I wish we had an opportunity to call some of the people back in, with some of the amendments. As you know, I was very clear with a lot of them, asking, "If it changes"—it would be helpful, although we're certainly not precluded from asking some of these people before third reading whether they now support the amended bill.

As I mentioned earlier, it's difficult for some of these groups, particularly when they have a parliamentary

assistant from that area, because people don't like to come in and criticize the government, in spite of what you might think. I get the feeling that for the groups that opposed it, and I used Avenor and Eddy and Spruce Falls Inc, that said, "Don't pass it as is," one of their big concerns was this whole issue of a definition and so on. I suspect that if you asked those people now whether they agree with this, they would still say, "No, we can't" and whatever.

That's what I'm getting a sense of. You can't say definitely, "Yes, this is now a definition that the people at Spruce Falls Inc like." I recognize that it was difficult to do. I just wanted to get that clarified. At the end of the day, you have to come up with something and we run of time. If our party had been in government or the Liberals, I imagine they also might not have been able to get a definition that would've been agreeable.

But I just don't want us to sit here and play the games, like with the other chap. When you ask them the question, "Do they agree to this?" they say, "They like the definition." Let's not play games. Let's say it's difficult and they couldn't agree to it.

My next question is this. I guess I was a little disappointed about our motion. I sat here, and I know some of the members tried hard to work it out and work with some of the staff people, but when push came to shove, the people making the decision were the staff, basically, who were calling it, because I cannot believe that our motion could not have been agreed to by the members. I'm a little bit concerned that at the end of the day what we do here doesn't matter. They tell you you can't. Unelected officials are going to have a big impact on Gilles' riding and, even as a parliamentary assistant, in your riding. They're making a decision you're going to have to live with on this.

Mr Mammoliti: You're in la-la land.

Mr Carr: George, we know that all you do is rubber-stamp, but in all fairness to Gilles and Len, I think they at least did try to work with the people and, at the end of the day, they did try to get it done. In your case I don't think it matters too much. You're just here for the ride.

Mr Mammoliti: You're in la-la land again.

Mr Carr: Some of us are attempting to make this bill better. Through this whole thing what I gather is that it really doesn't matter what we do here, that some of the work we try to put forward on some of these issues, and the same with Mike and Frank, isn't going to matter; they're going to do whatever they want. I'm not going to waste my time going through this.

As you know, I don't come from an area where I knew too much about the industry—I've tried because of my critic's portfolio—but in the two weeks I was up there I tried to learn as much as I could and put things forward. Of course, Chris knew a little more about it. We tried to put some of these amendments forward to make the bill better at the end of the day. It's not going to work.

I realize that, for whatever reason, there aren't going to be the changes, so there isn't a heck of a lot of point in putting the time into it and proposing amendments. Quite frankly, if I'm going to talk to anybody, it's those

people back there. You people won't make any of the changes.

Mr Mammoliti: Did you stay up all night?

Mr Carr: You know what, George? I knew what the amendments were about. I knew what they were about, George. I didn't sit here and collect my pay and watch the world revolving by. I attempted to work with the situation.

Interjections.

The Vice-Chair: Order, Mr Carr; through the Chair, please. Mr Mammoliti.

Mr Carr: I actually read them to know what I was voting on, George.

The Chair: Mr Carr, would you please address your comments to the Chair.

Mr Carr: What we attempted to do with that was put forward something constructive. I don't think it's too helpful to continue. The bill's going to go through; you're going to win the amendments coming through. All I'll say is that there's no sense even trying to work for compromise in supporting this. Anything the government puts forward, we may as well just vote against it, because you're not willing to listen to us and we're probably not willing to listen to you either. There's no sense wasting a whole lot of time on it. We're wasting everybody's time sitting around here debating this. Let's try and move it through a lot faster, because the bill's going to go through as is with the government amendments.

Ultimately, it's the people who are going to have to live with this. Committee is the one area where I thought we had some ability to attempt to make bills better, but I can see it won't be. I haven't been here under previous governments. They tell me it was the same way under other governments. Things aren't going to change too much around here. What I resent more than anything else is the fact that unelected officials, people who won't have to carry the can on this, are the ones making the decisions. It's a waste of time.

The Vice-Chair: Mr Hodgson.

Mr Mammoliti: I'm very disappointed in you, Gary.

Mr Carr: I'm very disappointed in you, George. For once you could go out on a limb.

The Vice-Chair: Mr Hodgson has the floor.

Mr Hodgson: In the interest of friendly amendments and trying to make this bill work better for the future, I follow what the government said, that it's taking my amendment out from this amendment, just a statement of principle that forests are important to the social and economic wellbeing of communities across Ontario, and it wants to put it into subsection 62(2) as "Thou shalt," put it word for word into that section.

To be consistent with what the government's asking—and I follow what Mr Bisson said, that you don't want to put a lot of words at the front of the act in the principles section, in section 1. To be consistent, the whole of subsection (3) should be deleted and moved, along with my amendment, into subsection 66(2).

That's the government's argument, the parliamentary assistant's argument, that those are the principles that

guide the makeup of the manuals. You'd put "Thou shalt" in your amendment and you'd take the principles right out of the front section and put them into subsection 66(2), to be consistent with the argument we've heard for the last two hours from the government, if I'm following that correctly. That's the reason my amendment was rejected as being put in here, because it was better suited to subsection 66(2).

It is a principle. You've got, "Large, healthy, diverse and productive crown forests and their associated ecological processes and biological diversity should be conserved." That's a principle that should be along with and balanced with social and economic sustainability for future generations, and it should go into subsection 66(2) if we're to be consistent with what the government's been saying this morning and yesterday afternoon.

With that in mind, to help the government be consistent and to make this act flow together in a consistent manner with the statements that have been made, I'd like to make an amendment to this amendment, if that's possible, Mr Chair. I have it in written form.

I move that the government motion dealing with section 1.1 of the bill be amended by deleting subsection 1.1(3), Principles.

I'll table this motion with the Chair at this time, but I feel that can be added into the government motion under subsection 66(2) and make it so all the principles are together that have to dictate how the manuals operate. Is that agreeable, Mr Waters? It's consistent and it's logical.

The Vice-Chair: I understand that this amendment is in order. Does everybody understand what is being moved? Apparently everybody understands it. We're now again discussing an amendment, so who wants to speak to the amendment?

Interjections.

The Vice-Chair: Order, please. Mr Carr and Mr Mammoliti, if you want to have a private discussion, please do it outside.

1430

Mr Bisson: I understand the light in which Mr Hodgson brings forward his amendment. I would just say that we went through the debate a little while ago in regard to trying to adhere to the requests of the Conservative caucus, unlike the characterization made by Mr Carr earlier. What we're trying to do here as a government caucus—Mr Wood and myself and other committee members also—is to listen to what the opposition is saying. If the opposition has amendments that make sense, that complement the bill and make it a better working document, why wouldn't we want to do that? We're perfectly prepared.

Unlike Mr Carr's characterization that he feels the entire process is run by the bureaucrats within MNR, I would say, no, that is not the case. We give the direction to ministry staff in terms of what we want to do. Certainly we confer with them in regard to what the implications of certain amendments would be—I think we have that responsibility—but it's entirely the decision of this committee to decide what we're going to do with this bill, and that's how this thing is proceeding.

The comments by Mr Carr I understand were made in frustration. I don't think he agreed with them himself. I think he's probably saying that because Mike told him to come in here and say that. That's understandable. That's your leader, that's what he wants you to do.

Anyway, speaking directly to the amendment—I was trying to figure out how to skirt around to get to that—what we're trying to do in this section is two things under the purposes clause. We're trying to set out what the purpose is, as is found presently in section 1 as it stands, and we have a number of principles that are set out in that. We then move on to giving a description of what sustainability is, unlike the characterization of the Liberal Party. There is a definition here; it's very concise, very clear, we know what it means.

Then what we're trying to do in this part is set a determination so we can measure that in the end. That's why this particular section is brought forward, with the determination of how we measure and the principles which they follow. The principles are guided back to the Forest Management Planning Manual found in subsection 66(2). If we were to do what you asked us to do, I think we'd have no way of doing the determinations.

What we were trying to do from the government side is take your request to bring that paragraph 3 you wanted into the act. We're prepared to do that and we will do it under 66(2), but to take out what you're asking us to do, to strike out the entire section 1 of the act after "Determination," I don't think would work. We need to leave that there so we have some ability to measure the determination about how sustainability is working. To take it out I think would delete that.

Mr Brown: Again my colleague from Victoria-Haliburton has brought forward an interesting approach, and I think it might be the approach which balances off the concerns the government had and the concerns Mr Hodgson had that the principles be on an equal footing. I think that's what Mr Hodgson is attempting to do and that's why he would prefer to see them in subsection 66(2). That makes some sense.

Our disappointment that we weren't able to define the principles up front that would apply to the entire bill, not just to the Forest Management Planning Manual but also to other elements of the bill like the silvicultural manual and other manuals, is clear. I think Mr Hodgson is making a valuable suggestion here. It seems to me that in order to get the balance correctly, what he is suggesting might be the route to go.

The government has already shown its reluctance to actually put the principles in the legislation. They're quite happy, I guess, to put them in the Forest Management Planning Manual, but every interest group that came before us said we needed to define this. What Mr Hodgson is suggesting is that if you won't define it up front, define it where all the points have equal weight in law. I share his concern that some of these elements are going to be interpreted by a court somewhere as having different weight. I think that's what Mr Hodgson is trying to get at, and I support his efforts in that regard.

Mr Bisson: I want to say again that if you take out this section, as proposed by Mr Hodgson, you would

have no weight in regard to the planning manuals. What we're doing is defining sustainability in the act under "Sustainability," section 1.1, and then quantifying how we do that and giving it more definition and giving it more weight by going off to section 66. If you take out "Determination" and "Principles," you're not going to have that. We can't support your motion, because it would delete the power we have in the act.

Mr Hodgson: I'd like legal counsel's opinion on that. As I read it, I'm not taking out the definition of sustainability or the determination. The determination reads, and this is subsection 1.1(2), "For the purpose of this act and the regulations, the sustainability of a crown forest shall be determined in accordance with the Forest Management Planning Manual." Then the authority for the manual comes in section 66. The principles have to be mentioned in the manuals, but the authority for the manuals comes from the act itself in section 66.

Mr Bisson: Just a question, just to help things along.

The Vice-Chair: Sorry, but the question is to legislative counsel. We'll hear from Mr Beecroft. Mr Hodgson, you still had a question for Mr Beecroft?

Mr Hodgson: Two questions. One is the question I just stated, and the other is, by leaving two of the principles here under "Principles" in section 1.1 and putting the third principle in subsection 66(2), would that have different weight in law?

Mr Beecroft: As I understand your motion, you're only proposing that subsection 1.1(3) be struck out.

Mr Hodgson: That's correct.

Mr Beecroft: So subsections 1.1(1) and 1.1(2) in the government motion would remain. Regarding the second question, if you simply removed subsection 1.1(3) from this section and transferred it word for word into section 66, I don't think it would have any different legal effect. Now, if you left two principles here and put another principle in section 66 that followed the same language, if section 66 said, "The Forest Management Planning Manual shall provide for determinations of the sustainability of crown forests in a manner consistent with the following principle," and you added a third principle, so you had two in section 1.1 and another one in section 66, it would be puzzling to do that from a drafting point of view.

Mr Hodgson: And that's what they're proposing to do here. My amendment makes it consistent.

Mr Beecroft: If you want those three lines that introduce the principles to be identical in both section 1.1 and section 66, it makes sense to have all three principles in one place.

Mr Hodgson: That's right. That's what my motion does.

Mr Beecroft: If you want the three lines that introduce the principles to be different, if the purpose of the provision in subsection 1.1(3) is different from the purpose in section 66, then there's a reason to have them in different places. But I'm not sure what the committee's desire is.

Mr Hodgson: I am not sure what the reason is. I'm told that we would take the weight away from the

planning manuals, and I don't think that's true.

Mr Carr: We were told you're wrong, Mr Beecroft.

Mr Hodgson: All I'm asking is that it be consistent. I propose that the government have a recess on this to determine what they want to do.

1440

Mr Wood: I don't think there's any reason for a recess. We have our legal person here who drafted the legislation and has given us the interpretation of it. I'm quite prepared to bring him forward to explain the reason. He can do it through me; if you think it should be done through me, I can have a chat with him.

Mr Carr: There's obviously a disagreement between legal minds.

Mr Wood: We have our legal people, the same as you had your legal people who drafted your amendments and the Liberals had their people who drafted their amendments. There's a reason for putting it in this particular—

Mr Hodgson: I'd be agreeable, Mr Chair, if we could ask the legal counsel.

The Vice-Chair: I think that's what Mr Wood authorized. Can we have the ministry legal counsel come to the table. Please introduce yourself.

Mr Stuart Davidson: My name is Stuart Davidson. I'm legal counsel for the Ministry of Natural Resources.

Mr Hodgson: Thank you, Stuart; sorry to have to bring you up here. My amendment to the government amendment is following the logic we've heard this morning, that we do not need to have a principle recognizing the economic and social aspects of this sustainability act which are mentioned in the purpose, that we can have that in subsection 66(2), as the government suggests. If this goes through, we would have two principles in the first section of the bill and one principle in section 66(2). In a court, would it ever be determined that these are unequal principles if they are in different sections of the act?

Mr Davidson: I think there's a little bit of confusion here, and I mean no disrespect. Subsection 1.1(3) is talking about the principles that will be applied in the determination of sustainability. These two principles that are delineated in 1 and 2 are the principles that the ministry will be obliged, under the law, to comply with or be consistent with when they're determining their test for sustainability.

If the committee decides—it is the committee's decision, of course—to include your motion in 66, what that means is that when they're drafting up the Forest Management Planning Manual, depending on the final wording of that motion, that will have to be an element of the manual. For example—and I don't want to put words in anyone's mouth—if we were to put a recognition that a healthy forest is vital to the economic and social needs of the people of Ontario, or whatever, that would mean that in that manual there would be a requirement that it be recognized in terms of how the manual is drafted.

Mr Hodgson: That's correct, and the government side

has already assured us that that's going to be in the government amendment. What I'm saying is that to make this bill consistent, all the principles should be in one section, and that's subsection 66(2); that would make it a consistent act. The idea that if you take out subsection (3) of your amendment, that wouldn't give any weight to the planning manuals—I believe the manuals stand alone under "Determination," subsection (2), and again in section 66.

Mr Davidson: I think the position of the ministry—and that's all I can articulate here—is that subsection 1.1(3) is relating to the principles that will be applied to the determination of sustainability. Those are the two principles that will relate to the test.

In terms of the motion that may be possibly raised by the committee in terms of the manuals, the two are not mutually exclusive, and it may be—in my opinion, it would be—that you're likely to have more weight if it's included as a separate principle—for want of a better word at this stage—in 66(2). That's the advice I think I've given to you.

Mr Hodgson: But they're all principles and they should be balanced. We've got the ecological requirements of sustainability in (3)1, and what I was asking for in (3)3 would have been the recognition of the social and the economic as equal, as the purpose of the bill says. So I'd like it all in 66, if you're saying that has more weight. That would give it a total balanced approach. If you remove (3), paragraphs 1 and 2, and put it into 66, it would have more weight and be consistent; all the principles that guide the manuals would be together.

Mr Davidson: I don't in any way mean to be argumentative, but in a way you're talking about apples and oranges. The two principles that are in (3) are talking about the principles that apply to determination of sustainability, and that is already in clause 66(2)(b). If they add your motion, then you have the balance that I believe you're recommending.

Mr Hodgson: But I would like to scrap these first two. There is another way to determine sustainability, and that's based on the economic sustainability of the communities involved, or social sustainability, as well as environmental, ecological sustainability. The ministry has to manage these crown forests in such a way that the people of Ontario can measure it. They will require accountability: Section 3 of this act says it will make the crown accountable.

Mr Davidson: With all due respect, that's a political discussion, and I think it should be—

Mr Hodgson: We're told on the political discussion that there are legal ramifications to what we're doing, that if you scrap subsection (3), paragraphs 1 and 2, and move it to section 66, there'd be no weight in the planning manuals. A legal question: Is that yes or no?

Mr Davidson: It depends on what the wording is.

Mr Hodgson: I'm talking about deleting it. There's no wording. You'd take (3) right out of section 1.1. Does that do away with the manual's authority? The authority does not come from subsection (3) of 1.1. Are you saying it does?

Mr Davidson: No, no. What I'm saying is that if you delete subsection (3) of 1.1, that could possibly change how the ministry determines what sustainability is. It effectively opens it up.

Mr Hodgson: If you put it into section 66?

Mr Wood: I think it has been answered a number of times.

Mr Hodgson: No, he hasn't. He's thinking about it, Mr Chair. The question is, yes or no, does it take away from the manual?

Mr Wood: You came up with an amendment on the spur of the moment, and he's answered it already.

The Vice-Chair: Just a minute. It seems to me that Mr Davidson doesn't want to answer this particular question, which of course is his prerogative. Do you have any further questions, Mr Hodgson?

Mr Hodgson: You don't want to answer that? That's okay.

The Vice-Chair: Do you have any further questions, Mr Hodgson?

Interjections.

The Vice-Chair: Could we have order, please. Mr Hodgson has the floor.

Mr Carr: I just see that you're arguing two sides and you're caught doing it. You can't argue two sides. You can't argue five minutes for one amendment and—

Mr Mammoliti: You can't move amendments to amendments every two seconds and then expect counsel to come up and answer your questions. You just can't do that kind of thing.

The Vice-Chair: Order, please. Mr Hodgson, do you have any further questions?

Mr Hodgson: No.

Interjections.

The Vice-Chair: Order, please. Thank you very much, Mr Davidson.

Mr Mammoliti: Kick them all out.

The Vice-Chair: Sometimes I would like to kick some members out, but that's not my prerogative.

Do we have any further debate on this amendment?

Mr Bisson: I come back to what I was saying. I originally understood that what you were talking about doing is taking out (2) and (3), "Determination" and "Principles."

Mr Hodgson: Not (2), just (3).

Mr Bisson: Okay, now you've clarified it. Looking at the principles alone, if you took out the part that says, "The Forest Management Planning Manual shall provide for determinations of the sustainability of crown forests in a manner consistent with the following principles," and that's entirely gone, you have nothing referring back to section 66.

1450

Mr Hodgson: You better put that back there, like you did with ours.

Mr Bisson: Follow what I'm saying here. Forget (1) and (2). I'm talking about (3), under "Principles." If you

take out those two lines, you have nothing referring back to section 66, other than what we have under "Determination." What we're trying to do here, and I guess what counsel is trying to tell you about apples and oranges, is that we want to define sustainability as meaning long-term forest health, then we want to have some kind of determination so we can measure that, and the way we measure that is through the Forest Management Planning Manual, and then we're saying "the following principles" will be part of that.

I will get to your point. If you took out those two lines, you would have no principles for how to determine your determinations, and if you took out those two lines you would have no weight in 66(2). I would take it that's basically what would end up happening.

I understand the point you're getting at. You're worried that if you don't have 3 as you proposed it, which is the economic thing, it has less weight. What we're saying is that it's not a question of less weight. I asked you the question originally when we started the debate this morning. I said right at the beginning that I support what you want to do but I'm not so sure you're putting it in the right section. The way I read your section, is it a green thing or is it a brown thing, green being an environmental clause, or is it an economic development clause? Depending on how you read that, if it's an economic development clause, it has a totally different connotation. That's why I was saying, if you're reading it as a brown clause, I don't think it belongs under "Principles." It would have to go under subsection 66(2). That's the logical thing.

The Vice-Chair: I'd like to remind the members that we're still discussing Mr Hodgson's amendment that came on the spur of the moment. We still have the main section, of course, to be discussed.

Mr Brown: I'm a little concerned that Mr Bisson is referring to economic development as "brown." That really wasn't the point.

As I look at what Mr Hodgson's trying to accomplish here, we have to remember that what we're dealing with here is an amendment put forward by the government—

Interjection.

Mr Brown: That's fine, but this is an amendment and it wasn't in the original bill. What the government amendment does—and people could help me if I'm wrong here—is that it says "Sustainability, for the purposes of the Forest Management Planning Manual, is...." It doesn't say for the Forest Operations and Silviculture Manual, it says for the Forest Management Planning Manual. So we have a definition, if I'm understanding this correctly, that only applies to the planning manual. In other words, we could have a prescription put forward as a plan, and the plan or the prescription may be successful but the patient may die, because the operations and the silviculture don't follow along. The plan was great; it just didn't work.

I want to know from the parliamentary assistant, does this definition that is being put forward in the amendment apply to operations and silviculture manual directly, or does it only apply to the planning process? If so, how is

the relationship between the operations and silviculture manual? Could you just describe the relationship here? If we're going to strike them, I would like to understand that. The government was perfectly happy a week ago not to have any definitions in here at all. Just help me out.

Mr Wood: You're wrong on that. We said we were going to come forward with amendments after we had the public hearings, and as a result of the public hearings we tabled our amendments last Thursday. They were given to the clerk and, I understand, circulated to the two opposition parties.

Mr Brown: We appreciate it.

Mr Wood: You're saying we had no intention of coming forward with a definition of sustainability and spelling it out and in the act and making sure it's covered under the Forest Management Planning Manual. We have done exactly what you're saying we had no intention of doing. I don't know what more you're looking for.

Now we're dealing with an amendment. You're saying, "We want to take some of that out of there and hide it into subsection 66(2)," and I'm asking, why do you want to take something out of the beginning of the act and put it into the back of the act? That's the amendment you're saying: to take it out of there and put it into the end. It all refers to sustainability and what message they—

Interjections.

The Vice-Chair: Mr Brown has the floor.

Mr Brown: I would really like an answer to the question. Do these principles, 1 and 2, apply only to the Forest Management Planning Manual?

Mr Wood: No, it applies to all the manuals, if that answers your question.

Mr Brown: How do we know that?

Mr Wood: Because I just said it is.

Mr Brown: That's great, but usually we try to write it.

Mr Carr: "Because I said it was."

Mr Wood: Well, I answered your question.

The Vice-Chair: Order, please. Any further questions, Mr Brown?

Mr Brown: After that one, no.

The Vice-Chair: Are we ready for the vote?

Mr Hodgson: No. I have one comment in response to a question posed to me by Mr Bisson. I could answer it in terms of an example. You're going to set up, under "Principles," 1 and 2, and 2 talks about, when you're determining sustainability and how you're to manage the forest business sustainably in these manuals, that you're "minimizing adverse effects on plant life, animal life, water, soil, air, and social and economic values." This act was supposed to promote economic and social sustainability.

For example, in Mr Waters's riding, if a crown forest wanted to have a trail put through it—that is removing trees, that's not regenerating the trees—that wouldn't be allowed if it was challenged under this act the way it would be written, unless you have some force of law to balance it that makes equal all three aspects of sustain-

ability that are mentioned in the preamble and the press releases.

The Vice-Chair: Are we now ready to vote on Mr Hodgson's amendment? The amendment reads:

"I move that the government motion dealing with section 1.1 of the bill be amended by striking out subsection 1.1(3)."

All those in favour?

Mr Brown: Recorded vote.

The Vice-Chair: Recorded vote.

Ayes

Brown, Carr, Michash, Hodgson.

The Vice-Chair: All those opposed?

Nays

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: The amendment is defeated.

We're returning to the government motion regarding section 1.1.

Mr Waters: After about three hours of debate, I'd like to put the question.

The Vice-Chair: You may wish to reconsider this, because this has serious implications. The government will then have to move—

Interjections.

Mr Waters: I can put the question on the government motion, right?

Mr Wood: I think we shouldn't.

The Vice-Chair: If you call the question, we will be voting on section 1 the way it is in the bill.

Interjections.

The Vice-Chair: I indicate to you again, we would be voting on section 1 as it is in the bill.

Mr Waters: Then I ask the Chair's indulgence in telling me how exactly we ever get to a vote on the government motion on section 1.1? Do we have to sit here till doomsday or do we get on with the job?

Interjections.

The Vice-Chair: Could we have some order, please?

Interjections.

The Vice-Chair: Gentlemen, there's only one Chairman in this committee, and it happens to be me today.

The answer to your question, which is obviously a valid question, is that if there are no more speakers who wish to speak to a certain amendment, we will call the vote.

1500

Mr Bisson: Now we're back where we started about an hour or an hour and a half ago.

I just wanted to comment about a couple of points Mr Hodgson made. He was worried about subsection 58(1) being in conflict, that it would give weight to the bill to be able to deal with private lands. Just for purposes of clarification for the committee, 58(1) would give the ability to the crown, the people who work for the crown, to get access to certain lands that are private. For example, there are patented lands in regard to mining

claims. As a lot of people in the north would understand, but maybe not in the south, it might be patented land by which the holder owns the surface rights but doesn't own the rights of the forest on that land. That's what 58(1) is all about. I wanted to clarify that for the record, that it didn't mean what Mr Hodgson said, that the intention was to give the purview of the act over private lands. It doesn't do that. It's only for the crown forests.

At this point I'll stop, because the person I wanted to talk to is gone.

Mr Wood: I'm going to be very brief in my comments. I think section 1.1 in our government motion addresses the concerns of a lot of people out there. It's unfortunate that Mr Carr is not here at this time, because I would have explained some of the questions he asked me about Spruce Falls. One forester has made a number of comments and other professional foresters have said: "We don't only have to worry about Kapuskasing. We have to worry about Smooth Rock Falls, Cochrane, all the communities in between." The professional foresters group came forward and said they thought we should proceed with Bill 171, with some amendments, and addressing the definition of sustainability would go a long way to doing that. This is what we've done.

Mr Brown: I have an amendment.

The Vice-Chair: You have an amendment to the government motion?

Mr Brown: To Mr Wood's motion, section 1.1.

I move that the government motion dealing with section 1.1 of the bill be amended by striking out "forest health" in subsection 1.1(1) and substituting "crown forest health."

All that actually does is add one word to the amendment and it just makes clear that we're talking about crown forests and not forests in general. We had that discussion a little earlier, I think the parliamentary assistant would remember. I was concerned that there is no definition of "forest" within this act, that the only definition of "forest" is "crown forest." I thought, to be helpful, that the parliamentary assistant and the government would clearly want the words "crown forest" in the amendment so we would understand we're dealing with crown forests.

The essence of this bill is that we are dealing with crown forests—in my view it should be all crown forests, but I know that's not the government's view—and we should be clear that's what we're talking about and not just forests in general. As long as we have to define things, I think we should know what we're talking about, unless the government plans on putting forward a definition of "forest" somewhere in the bill.

The Vice-Chair: Could you please pass that amendment to us?

Mr Brown: I think the clerk has a copy of that somewhere.

The Vice-Chair: He's not here right now.

Mr Brown: I think there were copies made for the committee. It was drawn up this morning.

The Vice-Chair: Okay. We have a new amendment.

Mr Wood, did you want to comment?

Interjection.

Mr Mammoliti: Mr Chair, is there another amendment?

The Vice-Chair: That's correct. Mr Brown just moved an amendment, and I will read it again:

"I move that the government motion dealing with section 1.1 of the bill be amended by striking out 'forest health' in subsection 1.1(1) and substituting 'crown forest health.'"

Mr Wood: On that amendment, we're proposing that under the definitions, "forest health" be defined. We have a motion that was circulated this morning which would define forest health. Without trying to be argumentative, Mr Brown, it says, "'forest health' means the condition of a forest ecosystem that sustains the ecosystem's complexity while providing for the needs of the people of Ontario."

Mr Brown: I'm having trouble finding it in my binder.

The Vice-Chair: It's in there, numbered 3.2 in the upper right corner.

Mr Wood: What you pointed out, Mr Brown, is that we're dealing with An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario, and I don't think we have any problem with inserting the word "crown" in there. I'm just not too sure what "crown forest health" would mean because the act really says we're dealing with crown forest health. If you think it's going to put some extra teeth into it—but the heading of the act is quite clear. I'm not going to argue whether the word "crown" should be in there. It doesn't really take anything away from the legislation; maybe it doesn't add anything to it either. I'm not sure.

Mr Brown: I'm not sure either, other than I thought that to be consistent—in the act itself the only definition of "forest" is "crown forest," and that's why I thought we should be consistent in that part of the bill. If that's not necessary that's not necessary, but it seemed to me just to be consistent.

The Vice-Chair: Could I make a clarification. The clerk has just checked, and the information I gave earlier to Mr Waters was incorrect. What we're discussing—well, what we were discussing before Mr Brown made his amendment—section 1.1 is a new section that is presently not in the bill. It is in order to call the question.

We're now going back to Mr Brown's amendment. I think Mr Bisson wanted to comment.

Mr Bisson: I just want to put a little fly in the ointment, Mr Brown, nothing serious, and I would look for some information from legislative counsel or maybe we can get the ministry lawyer up here. If you put the word "crown" in, instead of saying "forest," would it present a problem later on if we ever wanted to make a change to the Public Lands Act, to deal with reforestation on public lands, to say "crown forest" rather than "forest"? I just wonder if that would mean we would have to come back and reamend the act in some way in order to make those two acts mesh. This act speaks specifically only of forests found on crown forests, and if we wanted

to do something with private lands, as some people want to do, will that present a problem in the future? I don't know if it's a problem. I just raise the question.

The Vice-Chair: Has anybody got an answer to this?

Mr Wood: I just made the comment that we don't think we have a problem with it. We don't have a problem with the word "crown" being in there.

The Vice-Chair: Is there any further discussion? If not, can we have a vote on the amendment put forward by Mr Brown?

Mr Bisson: No. Listen, I'm going to fight with my parliamentary assistant now. I really want to have that information from—please.

Mr Wood: We have our legal adviser from MNR, Gilles.

Mr Carr: Why don't we send this guy home?

Mr Bisson: He wants to earn his pay.

The Vice-Chair: Any further questions regarding Mr Brown's amendment? No. We're then voting on Mr Brown's amendment. You all know what the amendment is. All those in favour of Mr Brown's amendment?

Mr Bisson: Recorded vote.

The Vice-Chair: Recorded vote. All those in favour of Mr Brown's amendment?

Clerk of the Committee (Mr Franco Carrozza): Mr Wood, Mr Brown, Mr Miclash, Mr Carr, Mr Hodgson, Mr—you have to vote.

The Vice-Chair: Well, he can vote against it. It's a long clause-by-clause.

Clerk of the Committee: And Mr Waters. It's six.

The Vice-Chair: All those opposed?

Clerk of the Committee: Mr Bisson, Mr Dadamo, Mr Jamison and Mr Mammoliti.

The Vice-Chair: The amendment carries.

We're now returning to the government amendment to the bill, the new section 1.1. Since this is a new section, there can be a limited debate. Is there any further debate? Okay, I call the vote, then, on the amended government motion regarding section 1.1. All those in favour?

Mr Brown: Recorded.

The Vice-Chair: A recorded vote.

Ayes

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: All those opposed?

Mr Mammoliti: You weren't satisfied with your amendment?

Mr Brown: No, I wasn't.

Nays

Brown, Carr, Hodgson, Miclash.

The Vice-Chair: Section 1.1 carries, as amended.

We're now moving on to section 2 of the bill. I understand there are some amendments being proposed. Mr Brown, I think you have an amendment.

1510

Mr Brown: This is the definitions section. We do have some amendments to the definitions section, but we

have questions about other definitions within this section that we may want some answers to.

The Vice-Chair: Would you like to do that all at once?

Mr Brown: It may be easier to go through, and for each definition as we come to it there may be some we don't need to talk about, but as we go through, just so we can be satisfied that we have the proper definitions here.

The Vice-Chair: So what are you proposing?

Mr Brown: I'm proposing that rather than just take the amendment, we have an opportunity to ask the parliamentary assistant about any particular definition as we go through. In some members' minds there are some questions about these definitions, not necessarily—

The Vice-Chair: So at this point you're not making any particular amendment. You'd simply like to have some discussion on section 2.

Mr Brown: For example, on "crown charges," I would like to begin with asking some questions about that.

The Vice-Chair: Let's start asking the questions, then.

Mr Brown: Maybe the parliamentary assistant can help me. I note that when we look at the definition of "crown charges," it doesn't indicate taxes anywhere in this. Is a charge different from a tax or a price or a penalty or a cost? I'm thinking about things like residual value. In section 28, the minister has quite a wide discretion on setting something called "price" that many people would think is a fee, many people might think is a tax. I'm just wondering if we have this crown charge adequately described and if the word "tax" might not be something the government would want to include in that.

The Vice-Chair: You can have your officials respond.

Mr Wood: Yes, and if you have another question, we can address that at the same time.

Mr Brown: Do I hear an answer?

The Vice-Chair: He will be giving an answer shortly. Do you want to continue?

Mr Brown: Now we come to the famous definition of "crown forest." It means, "a forest ecosystem or part of a forest ecosystem that is on land vested in Her Majesty in right of Ontario and under the management of the minister." The first question I have is, how many of these do we have and how do I know when I leave one forest ecosystem and get into the next?

Mr Wood: That information is out there. I'm not a professional forester, Mr Brown. You have different species of trees. We could probably get you an answer on approximately how many forests are out there, but I don't have the answer right at my fingertips.

To go back to "crown charges," we're not talking about taxes here; we're talking about fees and charges as a way of doing business as a tenant to a landlord, tenants operating on government-owned crown land. It's the cost of doing business and it's not necessarily tax; it's charges, fees or penalties, expenses. This is the way it's been operated.

Mr Brown: So, for the purposes of this act, you are

satisfied that "crown charges" describes everything and there's no need to include a word like "tax."

Mr Wood: Yes.

Mr Brown: That's fine. "Crown forests": We'll find out shortly how many we have, I guess, but it would seem to me to exclude forests which belong to the crown but are located on private lands.

Mr Wood: No. We have crown forests that are on private land.

Mr Brown: "'Crown forest' means a forest ecosystem or part of a forest ecosystem that is on land vested in Her Majesty in right of Ontario." That doesn't include, at least in my mind, forests that belong to the crown which are where someone else, some private individual or company, owns the land. Am I wrong?

Mr Wood: My understanding is that yes, there are crown lands, there are crown forests on crown lands, and there are also crown forests on private land, and the crown owns the forests and the resources on there.

Mr Brown: We're just trying to get this right. "'Crown forest' means a forest ecosystem or part of a forest ecosystem that is on land vested in Her Majesty in right of Ontario and under the management of the minister." The key word is that the forest is described as being on land vested in Her Majesty.

Mr Wood: I just got some clarification. I think you're right. What I was explaining earlier does not happen in this particular act, or this particular definition. We're dealing with crown land and crown forests.

Mr Brown: So a forest that is owned by the province, by Her Majesty, but is on somebody else's land, on private land or patented land under a mining claim or whatever, is not a crown forest. Am I correct in understanding that from this definition?

Mr Wood: The intention is that you're dealing here with crown forests on crown land. We're not dealing with crown forests on private land.

1520

Mr Brown: So that's what we intend. That means this act does not deal at all with a crown forest which is on private or mining patented land or whatever. Is that true? That's what it says.

The Vice-Chair: Mr Wood is just trying to get a response.

Mr Brown: I'm very patient.

The Vice-Chair: If we could be patient for a minute.

Mr Bisson: What's your point?

Mr Brown: Does it or does it not apply to crown forests which are on private or, say, mining patented land? That definition precludes it.

The Vice-Chair: Mr Wood, you have the option of calling officials forward.

Mr Wood: Yes. Based on your advice, I've just had some discussions with some people. What you're concerned about, Mr Brown, is covered under 67(1)29 of the act, under regulations.

The Vice-Chair: You can't find that, Mr Brown?

Mr Wood: It's at the top of page 28. I think that will

help you to understand the definition of what you raised, "crown forest." Any other questions, Mr Brown?

Mr Brown: I'm just trying to determine whether I'm satisfied yet.

The Vice-Chair: Perhaps while you think about that we can move on to—

Mr Brown: So this is the Crown Forest Sustainability Act, but it deals with forests that are not crown forests. Is that what I'm understanding? Is that right? Is that what paragraph 29 says?

Mr Wood: I referred you to that because under the regulations it helps to clarify. There are trees on private land, but the crown owns them.

Mr Brown: I understand that.

Mr Wood: And there are forests on private land that the crown owns.

Mr Brown: That's right, but they are not crown forests according to the definition that we're disputing. Paragraph 29 of section 67 permits you to make regulations, but they are outside of crown forests. Am I right or am I wrong?

Mr Wood: We're trying to cover a large area with a piece of legislation that—

Mr Brown: I understand.

Mr Wood: There's no doubt that in some cases we're not dealing with forests on patented land but just dealing with trees. There's a wide range of—

Mr Brown: But the definition of a crown forest that we're seeing here in the bill refers only to "a forest ecosystem that is on land vested in Her Majesty," but then under the bill, in a separate section, in 67(1)29, we have a section that can be regulated "governing the harvesting and disposition of trees that are not in a crown forest." So we have a crown forest bill talking about trees that aren't in crown forests, is that right?

Mr Wood: There's a regulation there to deal with that.

Mr Brown: Going back to my amendment that passed a few minutes ago to government amendment 1.1, where we talk about "long-term crown forest health," we're not referring to one of these forests; it would be on patented or private land, although the trees belong to the crown.

The Vice-Chair: It seems to me that there are some questions here that people are struggling to find an answer to. Perhaps the officials and the parliamentary assistant might want to think about it a little bit and put this on hold and come back with an answer later on, and in the meantime we'd go on to some questions. That's just to be helpful.

Mr Brown: That's fair enough.

The Vice-Chair: Perhaps the officials and the parliamentary assistant could come back later on, after they've had some time to think about this particular question. Do you have some other questions?

Mr Brown: In terms of making the legislation clear, I appreciate that.

We go to "first nation" means a band as defined in the Indian Act." I'm just a little perplexed. The legal defini-

tion is "band," is it, in the Indian Act? I don't have a copy of the Indian Act here.

Mr Wood: We'll have to get you an answer on that.

Mr Brown: My concern is that "first nation" is a term used by a great many bands in Ontario, but I know of at least one that hasn't adopted the term "first nation." They have decided that, as they should, on their own, to call themselves what they choose to call themselves. I'm just wondering how that works.

Mr Wood: I'll get a further clarification for you, but there is the Indian Act of Canada, and in our dealings with first nation people, we've referred to them as first nation people on a regular basis, and we're referring to them as first nation people in the act. We're also saying that that means a band, as defined in the Indian Act of Canada. The Indian Act of Canada probably hasn't been updated in how many years to reflect what "first nation" might be or what "band" might be.

Mr Brown: All I'm trying to do is clarify these definitions, and "first nation" is a term that many bands choose for themselves. If they choose that, I believe that's what we should call them. But I'm just looking at the legal definition and noting that some bands have not chosen to be known as first nations, and there are also out there people who believe themselves to be first nation people and who are in the process of negotiating, for example, a land base for themselves, who as of yet have not actually under the Indian Act been incorporated as a band.

Mr Bisson: On a point of order, Mr Chair: I take it that what we're supposed to be dealing with are amendments to the legislation. Somehow we're into a wide discussion of all the definitions.

The Vice-Chair: It is a point of order. However, as I indicated at the beginning, and the committee agreed, Mr Brown has asked on section 2, before he puts the amendments forward, to have a general discussion on the various definitions being put forward. That's what we're doing at the present time.

Mr Bisson: Is that in order, or should we be putting amendments?

Mr Brown: Mr Chair, I thought these questions were to be helpful. We're here to review this bill clause by clause, literally word by word.

The Vice-Chair: Mr Brown, with the agreement of the committee, I gave you the floor. You still have the floor. However, I might indicate that, as what you're asking for is clarifications on the legal definitions that are here, perhaps the ministry's legal counsel, who probably drafted these matters, would come before the committee and try and answer some of the questions you have. But of course that's a decision that's up to the parliamentary assistant.

1530

Mr Wood: With all respect, Mr Chair, I think as we get Mr Brown's questions, we can address a number of them. I don't know how many others he doesn't understand. We'll have to get him to put forward—

Mr Brown: I don't think it's a question of whether I understand them. It's a question of whether it is the

proper definition in the bill to suit the government's purpose and the purposes of the legislation. If we don't have it right, at the end of the day we cause a lot of confusion, there are court actions. These are important questions to be putting forward. We're to continue, Mr Chair, I take it?

The Vice-Chair: It's up to you, if you have further questions that are, hopefully, going to speed up the process of the amendment-making regarding section 2.

Mr Brown: Is the purpose here speed or is the purpose here thoroughness?

The Vice-Chair: I would say a good combination of both.

Mr Brown: Well, I'm moving as quickly as I can.

The next definition which happens to be before us is, "ecosystem" means an ecosystem in which trees are or are capable of being a major biological component." That's an interesting definition that I have some questions about. Would that mean Ontario Place is a forest?

Mr Wood: You've got a definition in your amendments on "ecosystem."

Mr Brown: Oh, I do have one. I'm sorry, I missed that one.

The Vice-Chair: But right now you haven't moved those.

Mr Brown: No, I haven't. I'm just asking, does that mean that Ontario Place—it is crown land owned by MNR. Theoretically, if you go in there with a bulldozer, you can rip everything out and grow a forest. Under the definition you put forward, is Ontario Place a forest?

Mr Wood: Well, yes. I mean, a tree is one thing that grows out there in the ecosystem.

The Vice-Chair: I guess the answer was yes. Next question.

Mr Brown: Thank you. Perhaps at this point—

Mr Mammoliti: Mr Chairman, if I may, I'm just a little confused about something that was asked. For the record, I'm not sure whether Ontario Place would be considered a forest. I think we should—

The Vice-Chair: Mr Mammoliti, you're out of order, but you can certainly call for the floor later on.

Mr Brown: At this point, I will make our amendment for "forest ecosystem," seeing as we're there.

The Vice-Chair: You will move amendments now?

Mr Brown: As we go through, we've hit the first Liberal amendment to the definitions section, which is the "forest ecosystem."

Mr Bisson: I thought the point was that you weren't going to do amendments.

Mr Brown: We can do them all and then come back. I just thought this would be more productive.

The Vice-Chair: So you're finished with your general questions—

Mr Brown: No, I'm finished up to this point, but I have an amendment relating to "forest ecosystem." Would you prefer that? We can ask questions about them all and come back and to the amendments. However—

The Vice-Chair: Right now we have started by asking the questions on them all. I thought that's what you were proposing.

Mr Brown: All right, we can do that.

The Vice-Chair: I thought that was helpful and I thought that's what you were requesting. In the interest of speed, perhaps we should continue with that.

Mr Bisson: What are we doing? Mr Chair, do we have unanimous consent?

The Vice-Chair: Unless there's disagreement, and I didn't hear any. Mr Brown, any further questions?

Mr Brown: That's fine. I think we'll go to making the amendments now.

The Vice-Chair: Do you want to go ahead with any amendments you may have?

Mr Brown: I move that subsection 2(1) of the bill be amended by adding the following definition:

"'ecological region' means a region defined by similarities in climate, soils and vegetation."

The Vice-Chair: Any further discussion on this? Do you want to speak to your amendment?

Mr Brown: Yes.

Mr Wood: Amend what? There's no such words in there. How can you amend something that's not in the act?

Mr Brown: We're placing another definition in the act.

Clerk of the Committee: He's adding it in. He's adding the definition to the act.

The Vice-Chair: Mr Brown, will you please give an explanation?

Mr Brown: Yes, I would be happy to. It is important. A number of presenters have pointed out that when we're talking about the crown forest, we're talking about ecological regions. We're talking about what kind of trees grow in certain climates, soils and vegetation. Certainly, if you're doing a forest management plan, it would be important, in our view, that it would be consistent within the same ecological region. I don't think that's terribly hard to follow, and I believe some amendments, as we go further through here, will explain why we need to do that. It seems to me that as we're having some difficulty deciding how many forests we have, we're having some difficulty deciding how many regions we have, it's important that we add this definition into the bill.

Mr Wood: Mr Chair, the words being brought forward here, "ecological region" to be added on to subsection 2(1), I guess at the end of it—

The Vice-Chair: No, in alphabetical order.

Mr Wood: These words were not in there. I think we should refer these two words over and see what kind of definition we're going to be able to get out there.

The Vice-Chair: So you'd like to stand that down?

Mr Wood: Yes. We've tried to deal with "sustainability," we've tried to deal with other words, and now the Liberals have come up with another, "ecological region," and they've put their definition of what they think it means. I think the only way to be fair is that

we're going to have to take a good look at it and see how many definitions are out there.

Mr Brown: I think the parliamentary assistant wants to stand that down. I'm quite prepared to stand that motion down.

The Vice-Chair: Okay. We'll stand that down until we've clarified some of the other things.

Mr Brown: Then I would be pleased to move subsection 2(1), forest ecosystem.

I move that the definition of "forest ecosystem" in subsection 2(1) of the bill be struck out and the following substituted:

"'forest ecosystem' means an ecosystem dominated by trees, and includes shrubs, herbs, mammals, birds, microscopic creatures, soil, air, water and other components of nature;"

I think that definition helps us with the Ontario Place scenario; I think that definition would keep us from defining Ontario Place as a forest ecosystem or as a crown forest. I would suggest that it might be far superior to the present definition that's contained in the bill.

1540

Mr Wood: What we have here is a Liberal motion talking about "an ecosystem dominated by trees," and the impression is that that would be what is out there. You could have an ecosystem without any trees. You could take all the trees out of a system and still have an ecosystem. You could have shrubs or whatever naturally grows there. You still have an ecosystem. So the wording you've got—

Mr Brown: But the forest ecosystem is the question I asked.

Mr Wood: We've looked at that and we've seen that it doesn't spell out what I think you want to spell out. You're saying "'forest resource' means trees in an ecosystem."

Mr Hodgson: Mr Chair, what order are these amendments going in? I have a motion in between the two Liberal motions.

The Vice-Chair: They're following in alphabetical order because that's the way these various definitions are arranged here.

Mr Hodgson: I realize that. I have one alphabetically ahead of the one we're dealing with.

The Vice-Chair: I don't know. I was given the order by the clerk.

Clerk of the Committee: The reason the motion's out of order is that it came in later than the other amendments. It's not only in alphabetical order but also—

Mr Hodgson: It's alphabetical and time. Thank you.

The Vice-Chair: Further discussion on this amendment, or are we ready for the vote?

Mr Brown: I have some difficulty with describing Ontario Place as a forest ecosystem. I don't know whether anybody else does. Many parts of Toronto would therefore be—this place itself would be a forest ecosystem, I take it. Sure, if that's what the government intends or what the government means, but is that the intent?

That's what the government's definition means.

I think you have to meet two criteria for the government's definition to work. The two criteria are simply that the crown owns it and, second, that it's capable of growing trees, and I don't know very many parts of Ontario that aren't capable of growing trees other than the extreme far north.

Mr Wood: The message I was trying to get—you're referring to Ontario Place. If it were under the ministry, it would be different.

Mr Brown: It does belong to the ministry.

Mr Wood: But it's not being managed by MNR. Our argument on this one, Mr Brown—you probably would have liked to get a good definition there, but the definition you've brought forward does not do the job you intended it would do when you brought it forward. It would have to be redrafted by professional foresters or something to give it better teeth. I don't think it does what you thought it was going to do.

The Vice-Chair: Are we ready for the vote on this particular amendment?

Mr Brown: I don't find that a very satisfactory response.

Mr Wood: We'll vote on it, then.

Mr Brown: I know we will to vote on it. But I have great difficulty with Ontario Place being called a crown forest and being a forest ecosystem.

Mr Mammoliti: What difference does it make, Mike? I'd like to know.

Mr Brown: The member asks what difference it makes, and I think it does make a difference.

Mr Mammoliti: Seriously.

Mr Brown: Seriously. The debate around this bill is based largely around ecosystems, that we want to maintain and sustain ecosystems, so we have to understand what they are. How can you maintain and sustain an ecosystem if you can't define what it is? Maybe our definition doesn't work, but I would suggest to you that it is at least a better definition than the government's in that it talks about things other than it's capable of being dominated by trees, because that describes the entire province of Ontario.

We would like to know, and maybe some staff could help us, how do you know when you go from one ecosystem to the next? Your definition is so broad that Ontario could be considered one forest ecosystem. It could also be considered about 100 million ecosystems, depending on how you define it. If you're going to go out and manage for ecosystem values, you're going to have to tell us what that's about. Our definition may not be great, but I think it's an improvement over the uncertainty yours creates.

Mr Wood: But you're saying that trees means trees in a forest ecosystem. You could clear all the trees out of a system and still have a forest ecosystem. We know that can happen or has happened and you can still have a forest ecosystem.

Mr Brown: Southern Ontario's a good example of that.

The Vice-Chair: Mr Bisson had also a question on this one, and then we might want to vote on this amendment.

Mr Bisson: If I read the definition the Liberals put forward, "an ecosystem dominated by trees," you know very well, Mr Brown, that you have a number of areas in the forests that are not dominated by trees and it would not be considered a forest ecosystem under your definition. I look at the one that's in there now as making a lot more sense, so I disagree on your definition.

The Vice-Chair: Are we ready to vote on this amendment? All those in favour of Mr Brown's amendment?

Mr Brown: Recorded vote.

Ayes

Brown, Carr, Hodgson, Miclash.

The Vice-Chair: Those opposed?

Nays

Bisson, Dadamo, Jamison, Mammoliti, Wood.

The Vice-Chair: That motion is defeated.

Any other amendments, Mr Brown?

Mr Brown: Oh, I think so, Mr Chair.

I move that subsection 2(1) of the bill be amended by adding the following definition:

"'forest ecosystem unit' means a part of a forest ecosystem defined by an association of plant species and soil conditions;"

That comes back to our concern that there has to be an understanding of how much of an ecosystem we're talking about. I'm not going to say much more because you don't seem to really like any of my definitions, but we're just trying in this process to bring some certainty to what the forest planners are going to have to decide. When you talk about ecosystem management, it seems to me you'd better be able to define it; therefore we're putting this forward. I'd appreciate hearing what other members have to say.

Mr Bisson: I question why we would put into the bill a definition of something that's not found in the bill. "Forest ecosystem unit" is never mentioned in the bill once.

Mr Brown: At present.

Mr Bisson: It is not described in any way in the bill or the planning manuals, as far as I know, so why would we want to put that in?

Mr Brown: I believe there are amendments later on that address that, but we can probably come back if there is and define it.

The Vice-Chair: Any further debate? We'll vote, then. All those in favour of Mr Brown's amendment regarding the definition of "forest ecosystem unit"? All those in favour? All those opposed? The motion is lost.

1550

The next amendment in order of alphabetical priority is a government motion.

Mr Wood: I move that subsection 2(1) of the bill be amended by adding the following definition:

“‘forest health’ means the condition of a forest ecosystem that sustains the ecosystem’s complexity while providing for the needs of the people of Ontario;”

Mr Brown: What does that mean?

Mr Hodgson: Does the government define “needs” as social and economic wellbeing?

Mr Wood: “Needs” can cover everything that the people of Ontario—it’s a broad word: all the needs of the people of Ontario.

Mr Hodgson: How do you measure that? This definition goes to the key of sustainability, and if we’re going to be accountable, there has to be some way to measure. I was wondering if you were talking about social and economic wellbeing or just all and every need.

Mr Wood: You’re saying, what are the needs of the people of the province of Ontario?

Mr Hodgson: If it were social and economic wellbeing—

Mr Wood: Social, economic, environment: These are the things we’re talking about when we’re talking about forest health. When you define those other three words, you’re taking in a broad sector of what the needs of the people of Ontario would be.

Mr Hodgson: There’s Maslow’s hierarchy of needs. Is that the guide we’re going on? I gather the forest manual’s got to take that into account?

Mr Wood: Yes.

Mr Hodgson: So why don’t we put down Maslow’s hierarchy of needs?

Mr Wood: The forest manuals are there and they would cover that whole area.

Mr Hodgson: Will the ministry provide a definition more specific in the definitions section for “the needs of the people”?

Mr Wood: That’s the definition we’re talking about.

Mr Hodgson: Okay. So it will be up to the courts.

Mr Brown: I’m kind of grappling with this and still trying to determine what it actually means. I would think “forest health” kinds of presumes that it is healthy and it’s not just a condition. The condition would be healthy, not unhealthy. The way you have it defined, it could be the Ontario Place example where the forest is in terrible condition, obviously, and this definition would fit.

Mr Hodgson: Just for the record, I want to say that I support this amendment that the government’s putting forward. The definition of sustainability is “long-term forest health,” and that’s for all the people of Ontario.

The Vice-Chair: So you know what the needs are.

Mr Hodgson: Everyone will have a long and prosperous—

Mr Carr: We’ve defined it ourselves so that it’s still open-ended.

Mr Hodgson: That’s right, and we support that.

The Vice-Chair: Are we ready for the vote? All those in favour of the government’s amendment to subsection 2(1), the definition of “forest health” to be added? All those opposed? The amendment is carried.

Now, we’re moving right along to the Conservative amendment to subsection 2(1).

Mr Hodgson: I move that the definition of “forest operations” in subsection 2(1) of the bill be amended by inserting “inclusive of uses other than harvest” after “purpose.”

The whole thing would read, “‘forest operations’ means the harvesting of a forest resource, the use of a forest resource for a designated purpose inclusive of uses other than harvest, or renewal or maintenance of a forest resource, and includes all related activities;”

The purpose of this amendment—it was confirmed yesterday by senior ministry staff and it was talked about in the government estimates this year in MNR. They’re looking for ways to assess values on other uses of the forest resource, and not all uses require a harvest. In the future, this will not restrict this act implementing dues or other things on forest operations other than harvest. It’s crucial. It just allows the minister a little more flexibility in establishing what’s fair user rates in the forest.

The Vice-Chair: Any further debate on this amendment? If not, all those in favour of the Conservative amendment? All those opposed? The amendment is defeated.

The next amendment is a Liberal amendment to the definition of forest resource.

Mr Brown: I move that the definition of “forest resource” in subsection 2(1) of the bill be struck out and the following substituted:

“‘forest resource’ means trees in a forest ecosystem;”

The reason for this amendment is to make it clear that in this timber bill we’re talking about trees and not talking about blueberries that somebody could charge for, like the Treasurer or the Minister of Finance. We’re not talking about anything other than the trees, and I think it’s quite simple. The way the government has this is that it permits the minister under any whim to provide regulations regarding any other commodity in the forest, and we believe that is not what this bill is about.

The Vice-Chair: Any further debate?

Mr Wood: Just a comment that the definition is far too restrictive, I believe.

Mr Brown: I’ll ask the parliamentary assistant, what other resources would the government be considering?

Mr Wood: I’m just saying that we don’t want to confine it, to be too restrictive.

Mr Brown: Such as? Examples? Would blueberries be one?

Mr Bisson: Blueberries, grapes.

Mr Brown: Hawberries.

Mr Bisson: Strawberries.

The Vice-Chair: One person at a time. I can’t follow all these berries.

Mr Wood: I wasn’t going to go that far, but I think Mr Brown is well aware of what we’re talking about. We don’t want it restricted.

The Vice-Chair: Any further debate? All those in favour of Mr Brown’s motion?

Mr Brown: Recorded.

Ayes

Brown, Carr, Hodgson.

The Vice-Chair: All those opposed?

Nays

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: The motion's lost.

I'm told that the next motion by the Conservatives is the same motion as the Liberal motion, and since it was defeated, we can't vote twice on the same subject.

Mr Hodgson: It's similar, yes, I'll agree to that. From what we've heard today, things can be similar but different.

1600

The Vice-Chair: The next motion is a Liberal motion.

Mr Brown: I move that the definition of "forest resource processing facility" in subsection 2(1) of the bill be amended by striking out "or any other facility, whether fixed or mobile, where" in the second and third lines and substituting "or any other stationary facility where".

This is the section we heard a tremendous amount about; it's about mobile processing. We heard a great deal in the northwest, and some of the questions—I have raised this amendment more to ask questions and to get some clarification from the ministry than anything else.

I want to know what machinery could be considered mobile? What are we talking about? Are we talking about the famous mobile chippers and that's all, or are we talking about delimiters or any other kind of machinery that may now or in the future be used in the forest? Why do we have to license something that is portable and mobile?

Mr Wood: I'm not going to go into a long answer. All I would say is that it's equipment considered to be stationary or permanent, built, that would stay in one place, including complete pulp mills, paper mills, sawmills that are operating as portable operations right now. Maybe not all of them in Ontario, but they are operating throughout the world and they are portable. The paper mill, the pulp mill, the sawmill, the slasher, whatever it is, they move it as they need the forest. They follow the forest.

Mr Brown: My real question, then, is where is this spelled out in terms of what machinery is included in this act, or how is that done? We have to recognize that technology changes, and over time some technological circumstance may occur that we don't even imagine at this moment. How does the ministry deal with that? For example, are we talking about the simple sawmill that quite a number of my constituents have, that they use either on their farm operation or in a small kind of timbering operation or lumbering operation, mostly on private lands? Is that included in here? Do these people then have to get licences?

Mr Wood: As I said, we've seen complete operations change from when they used to haul one log at a time with a horse to the point now where we have complete operations that were not even thought of years ago, being

permanent on cement bases, now mobile and being moved. There's no doubt about it, it will be clarified in the manuals as we go along, but we have to leave the definition there to make sure there is room for keeping up with advanced technology and modernization and everything that is happening out there in the world and is going to continue to happen. We've seen that from the different species of trees that were considered to be a weed and nobody wanted them. People are willing to come to fist fights and draw blood over poplar, because there's a dollar to make on it, and birch. The whole operations are changing, and that's why the feeling was that you need that flexibility.

Mr Brown: To answer my question then, the government views this as a way of licensing all facilities—

Mr Wood: Processing facilities.

Mr Brown: —all processing facilities. How does the government define processing? A delimeter, for example: Is that a process, or is that a part of the harvesting operation that has nothing to do with—

Mr Wood: We're talking about adding the word "facility" on to a processing facility. The two words are together, go hand in hand.

Mr Brown: I understand that. But "processing facility": Is it the government's view that means a delimeter?

Mr Wood: We've had that discussion during the public hearings. The regulations will have to specify which ones are going to have to be licensed.

Mr Brown: So what we will see in the regulations coming from this bill is a list of the equipment or machinery or whatever that would be subject to the licensing provisions. That's why we're talking about this, because these are in the licensing provisions of the bill later on. So in the regulations you will spell out: "This means sawmill" or "It doesn't mean sawmill. It means portable pulp mill, but it doesn't mean portable paper mill" or whatever. That will be spelled out in the regulations?

Mr Wood: Yes, it will be spelled out in the regulation. In "forest resource processing facility," it's already spelled out; it "means a sawmill, pulp mill or any other facility, whether fixed or mobile, where trees or other forest resources prescribed by the regulations are initially processed." They're saying it will be covered under the regulations.

Mr Brown: "Or any other facility" is the problem. We don't mind so much the ones that are delineated; it's "or any other facility" which is the big catch. You're telling me you will define "any other facility" in the regulations? Is that the way it happens?

Mr Wood: What is going to be the process for making newsprint 25 years from now? What was the process for doing it 100 years ago? Things are changing. What is "other facility"?

I've seen the whole operation go from horses to Caterpillars to timberjacks all the way up from portable sawmills, permanent sawmills, portable chippers, permanent chippers, to where you have paper mills and pulp mills on a boat processing and moving down the river

and producing newsprint: Chips and fibres go in one end and it's going out the other end and they just keep moving it down the river as they're processing. Technology is there to do it, and that's why we're talking about "other facilities."

Mr Brown: I'm not questioning that; I agree with what you're saying. All I'm doing is trying to determine how the government spells that out. Is that done in the regulations?

Mr Wood: It's in the regulations.

Mr Bisson: We all deal, in northern Ontario, as my friend from Muskoka would, with the problems of—if we were to do what you want, it would give the ministry a much more difficult time being able to deal with a lot of the small portable mills that eventually become permanent mills and don't have a wood allocation, and then we're all scrambling around to try to find the wood after. We deal with that in all of our ridings. I think this gives us greater ability in the future not to let that problem get worse than what it is. I see that your amendment would make things a little bit more difficult in the future.

Mr Hodgson: If the government wanted to stand this down—because I understand the parliamentary assistant's difficulty with this. "Forest resource processing facility" as defined is vague. The Ontario Lumbermen's Association had a really good explanation and a recommendation for this. The way it's defined right now, a slasher that processes tree-length logs, produces veneer logs or a firewood processor might be considered a facility because the forest resources are processed through them, and this is just one of those advances in technology that Mr Wood's referring to.

I think what the ministry's trying to get at is mobile, in-bush chippers that process roundwood, a whole lot, and the people of Ontario have a right to consider that because there's no way the ministry calculates the crown dues before it's chipped, and if it's sorted, it's just up to the operator of the chipper; we do with our crown dues on the weight afterwards. There's no way to regulate the highest and best end-use, no matter how you want to define that, or the difference in crown dues; it's \$7.50 a cubic metre if it's chipped and goes to pulp wood or \$11.50 a cubic metre if it's a log.

I think what the government's trying to get at is some way to license roundwood chippers, but I've never heard in the discussions that you wanted to license advances in technology: delimbing logs or producing the type of equipment that can harvest veneer. Am I correct in assuming that? I didn't hear all through the hearings that the ministry's intent was to ever license that type of advance in technology.

1610

Mr Wood: There's no doubt that the issue you've raised on portable chippers was raised in the northwest, but other discussions have been brought up: What is the technology going to be five years from now, 10 years from now? Maybe the chipper as we see it now will be gone and there'll be another processing facility taking its place, as it has changed so drastically over the last three years.

Mr Hodgson: We deal with mobile sawmills in this legislation, and where their licensing comes in is based on the volume of wood.

Mr Wood: We deal with mobile pulp mills. We deal with mobile sawmills. We deal with—

Mr Hodgson: I'm agreeing with you, Mr Wood. It's just that if you want more time to think about it, I'd be willing to let you stand this particular one down, because it is vague and there is confusion out there.

Mr Brown: I think part of the problem was that some of the discussion focused on very specific machinery. As we consider this—and to be fair, we can consider this during the licensing section perhaps more, the whole question of the need for licensing etc and how that licensing might be done. I would think that standing this down may be an appropriate thing to do in view of what may happen when we get to the licensing sections.

Mr Wood: I don't think there's any point in standing it down. I think we should deal with it. We're going to have to deal with licensed chippers, we're going to have to deal with technology as it advances, and we're looking for room to be able to deal with that technology, whether it's portable or fixed.

Mr Brown: Mr Chair, I will withdraw that amendment.

The Vice-Chair: The amendment is withdrawn. We're moving on to 5A, another Liberal motion.

Mr Brown: I move that subsection 2(1) of the bill be amended by adding the following definition:

"'natural forest' means the forest ecosystem produced as a result of the interaction of vegetation, soils, climate and natural disturbance processes in the absence of direct human disturbance;"

I would really like to know why I'm making this amendment.

The Vice-Chair: I'm sure everybody else would like to know that too.

Mr Brown: Sometimes you surprise yourself.

Mr Bisson: I was going to ask that very same question. Why are you bringing that forward? "Natural forest" is never mentioned in the act.

Mr Brown: How be we withdraw that?

The Vice-Chair: Okay, the amendment is withdrawn. This concludes the amendments I have in front of me regarding subsection 2(1); however, there's the one we stood down. Does the parliamentary assistant have an answer on that now?

Mr Wood: You're talking about 2A. It was a new section brought forward by the Liberal caucus, and I have no idea why it is being brought forward. You're not amending anything that is in the act right now. There's a suggestion that the words "ecological region" should be put in there and should be defined. Our position is that we don't know why it's brought forward in the first place; there's no reason for it.

Mr Brown: I'm sure there's a management job or other job that requires it, but we can always come back and add it. It's a little broad.

The Vice-Chair: Mr Brown, you're withdrawing this one as well?

Mr Brown: We'd like to go back to the "crown forest" discussion that I believe was stood down pending an answer from the ministry.

The Vice-Chair: No, I don't think there was anything else that was stood down.

Mr Brown: It wasn't stood down but we said we would get a reply from the ministry.

The Vice-Chair: I'm sure you'll be able to ask the question again and hopefully you'll be able to get some answers from the ministry officials, but we did not stand down any other amendment.

Mr Brown: There wasn't an amendment; it was a question about that particular clause.

The Vice-Chair: I'm sure you'll get an opportunity to get an answer for that.

There is another amendment to section 2.

Mr Wood: I move that subsection 2(2) of the bill be struck out.

Mr Hodgson: What's the purpose of the amendment? It's redundant?

The Vice-Chair: I presume you're asking why the section is deleted?

Mr Hodgson: Yes.

Mr Wood: When we revised section 1.1, it replaces this section.

Mr Hodgson: It's in subsection 1.1(2).

The Vice-Chair: All those in favour? Opposed? Carried.

Mr Wood: Because of the amendment we accepted that the Liberal caucus brought forward where the word "crown" comes in prior to "forest health," we want to be consistent, so "crown" should be—

Mr Brown: I'm lost.

The Vice-Chair: I'm not clear either. Mr Wood, you are trying to make a further amendment to—

Mr Wood: I'm just trying to make sure it's consistent with the amendment we accepted, where we're talking about "crown forest health."

The Vice-Chair: I understand that with regard to the government motion that carried, where we were defining "forest health," in order to be consistent with the earlier motion—

Mr Brown: It should be "crown forest health."

The Vice-Chair: That's correct.

Mr Hodgson: Does that affect other areas? I suspect it has ramifications throughout the act.

Mr Brown: Could we take five to figure this out?

Mr Wood: Maybe make it 10.

The Vice-Chair: He's asking for a 10-minute recess. We'll recess until 4:35.

The committee recessed from 1623 to 1638.

The Vice-Chair: We'll resume our deliberations after that hopefully refreshing recess.

Mr Wood: Under 2(1) I move that the definition of—

The Vice-Chair: Sorry, before you do that, as we did vote on 2(1), I'd have to have unanimous consent to reopen this. Agreed? Agreed.

Mr Wood: I thank the committee for unanimous consent.

I move that the definition of "forest health" be changed to a definition of "crown forest health."

The Vice-Chair: Any comments? All those in favour? Opposed? Carried.

Mr Brown: While we're on this definitions section, there are three definitions that the government has not defined that are critical to this bill. I would ask that the government come forward with definitions for the term "damages," for the term "losses," and the term "licences," all of which are used in the bill without any definition. We are not clear, as an opposition, what it is the government's referring to, and many people have expressed the same thought, that they don't know what "damages," "losses" or "licences" mean in the framework of this bill.

I would ask that rather than adopting this section, we stand it down to permit the government to come back and define those terms. At some point, as we go through the sections that deal with those terms, the government may wish to come back and place those definitions in the definitions section of the bill.

The Vice-Chair: Mr Brown has requested—

Mr Brown: Unanimous consent.

The Vice-Chair: —that we stand down the voting regarding section 2. Is that agreeable to the committee?

Mr Wood: I'm not really sure that would be necessary. You're saying the three words "damage," "losses" and "licences."

Mr Brown: Rather than debate right now those sections which involve those words, Mr Wood, I'm suggesting that debate on those words might be more appropriate to the sections where they come up. I just think it's an orderly way to do business. If the government doesn't see the need to define them when we get to those sections, then we can pass section 2, but just leaving it open for the moment might be very helpful procedurally.

Mr Wood: I don't think so. They're not in 2(1) right now.

The Vice-Chair: There's no unanimous agreement to stand down section 2. Are we ready for the vote? In fact, we are ready for the vote, because we were in the process of voting before.

Mr Hodgson: Can I request a 20-minute break for the vote?

The Vice-Chair: You can always request that.

Mr Hodgson: I am requesting it.

The Vice-Chair: We stand adjourned for 20 minutes, and that will mean we are adjourned until tomorrow morning at 10 o'clock, when we will have a vote.

The committee adjourned at 1643.

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STANDING COMMITTEE ON GENERAL GOVERNMENT

***Chair / Président:** Brown, Michael A. (Algoma-Manitoulin L)

***Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)

Arnott, Ted (Wellington PC)

***Dadamo, George** (Windsor-Sandwich ND)

Grandmaître, Bernard (Ottawa East/-Est L)

Johnson, David (Don Mills PC)

***Mammoliti, George** (Yorkview ND)

Mills, Gordon (Durham East/-Est ND)

Morrow, Mark (Wentworth East/-Est ND)

Sorbara, Gregory S. (York Centre L)

Wessenger, Paul (Simcoe Centre ND)

***White, Drummond** (Durham Centre ND)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South/-Sud ND) for Mr Mills and Mr White

Carr, Gary (Oakville South/-Sud PC) for Mr Arnott

Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson

Jamison, Norm (Norfolk ND) for Mr Mills

Miclash, Frank (Kenora L) for Mr Sorbara

Morin, Gilles E. (Carleton East/-Est L) for Mr Grandmaître

Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND) for Mr Wessenger

Wood, Len (Cochrane North/-Nord ND) for Mr Morrow

Also taking part / Autres participants et participantes:

Ministry of Natural Resources:

Davidson, Stuart, legal counsel

Wood, Len, parliamentary assistant to minister

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Beecroft, Doug, legislative counsel

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Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Wednesday 14 September 1994

Journal des débats (Hansard)

Mercredi 14 septembre 1994

**Standing committee on
general government**

Crown Forest
Sustainability Act, 1994

**Comité permanent des
affaires gouvernementales**

Loi de 1994 sur la durabilité
des forêts de la Couronne

Chair: Michael A. Brown
Clerk: Franco Carrozza

Président : Michael A. Brown
Greffier : Franco Carrozza

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENT

Wednesday 14 September 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Mercredi 14 septembre 1994

The committee met at 1018 in committee room 2.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Vice-Chair (Mr Hans Daigeler): We're continuing clause-by-clause consideration of Bill 171. Before we adjourned yesterday, there was a call for a 20-minute recess, which has expired. We're now voting on section 2, as amended.

Mr Michael A. Brown (Algoma-Manitoulin): Mr Chair, could this be recorded?

The Vice-Chair: A recorded vote. All those in favour of section 2, as amended?

Ayes

Bisson, Dadamo, Duignan, Jamison, Waters, Wood.

Nays

Brown, Carr, Hodgson, Miclash, Morin.

The Vice-Chair: The motion is carried.

With regard to sections 3, 4, 5 and 6, are there any amendments? I don't have any amendments.

Mr Brown: We may have some questions, though.

The Vice-Chair: You have some questions.

Mr Brown: On section 3, why do we have to say this? Isn't it obvious that the crown is bound by the act?

Mr Len Wood (Cochrane North): In drafting the legislation, it's standard that it's in there. It's in other pieces of legislation and it's in this one.

Mr Brown: You mean it's possible to draft an act that the crown isn't bound by?

The Vice-Chair: The question is to legislative counsel.

Mr Doug Beecroft: The Interpretation Act provides that no act binds the crown unless the act specifically says it does, so this is an essential provision.

The Vice-Chair: Any further questions regarding sections 3, 4, 5 and 6?

Mr Brown: I want to talk about section 4. We will be voting against section 4, and I indicated when I was proposing our amendment to section 1 that we would be opposing it. This act is to deal with crown forests. Amazingly, yesterday we found out that Ontario Place is a crown forest under the definition of the government.

We have real concerns. If we're talking about sustainability and we're talking about crown forests, as the government claims we are, and not talking about timber, as we claim we are, it seems to us that all forests on crown land should be subject to the Crown Forest Sustainability Act. For the government to come forward and exempt certain forests from being under this act seems ludicrous. If you talk about ecosystems, just because you have a boundary around a provincial park doesn't mean that it's not part of an ecosystem of the next management unit that the ministry might define. I would like somebody to explain to us why they think the provincial parks need to be excluded if you're talking about ecosystems, ecosystem management and all those good things. Could somebody explain that?

Mr Wood: All section 4 says is, "This act does not apply to a crown forest in a provincial park within the meaning of the Provincial Parks Act." There are other acts that deal with this. We're saying this particular act does not necessarily deal with the crown forests in provincial parks because it's covered under the Provincial Parks Act.

Mr Brown: But is that not a crown forest? The title of the act is the Crown Forest Sustainability Act. What the government is claiming is that we are going to sustain, because it's what the title of the bill says, forests in Ontario. If you want to run around and draw artificial boundaries around things, as provincial parks do, and we're not saying that shouldn't happen, we're just wondering why, if you are looking at diversity and all the good things from an environmental standpoint, you wouldn't be considering the land within the provincial park as part of that ecosystem.

That doesn't mean you can timber in it. It doesn't mean anything like that. It means if you're looking at an overall view of a forest—we still have some difficulty understanding what you mean by "forest," but if there's a forest ecosystem there, it doesn't start and stop at provincial park boundaries, unless you're telling me that we have a new forest every time we have a provincial park boundary. If you're looking at diversity, you have to consider what's in that provincial park to make the plan for the next unit—at least I would think you do, and so do a lot of other people, for that matter.

Mr Wood: You've asked the question, is it a crown forest? Section 4 says, yes, it is a crown forest in a provincial park, but the Provincial Parks Act deals with that and there is management in place under the Provincial Parks Act to deal with provincial parks.

Mr Brown: If that's the government's position, would

the forest in the provincial park be considered as part of the planning process for the management units that may be adjoining it? Will a forester, when he's authoring the plan, have to think about what is in the provincial park immediately next door, right across the line? One second you're in the park, the next minute you're in the management unit. Is one of the considerations the forester will have to make in regard to the forest in the provincial park?

Mr Wood: There are values there that professional foresters are going to have to take into consideration when they're there and they have to plan around that.

Mr Brown: If there are, why would you be exempting the provincial parks from this act?

Mr Wood: We're saying, "This act does not apply to a crown forest in a provincial park within the meaning of the Provincial Parks Act." The Provincial Parks Act deals with the management plans of provincial parks. We're not dealing with provincial parks in this particular act.

Mr Brown: But how can you make a credible argument that you're looking after the crown forests, you're going to sustain the crown forests, when you're going to exempt provincial parks from the provisions of this bill? I can't imagine, as I say, that an ecosystem can start here and stop there. You've got to look at what's in that park to do a proper job of understanding what you can do in that management unit or FMA or whatever it is right across the line. How can you exempt it?

Mr Wood: I could argue back and forth for a long time if that was the wish, but this is the way it's been traditionally done by the ministry and this is the way we're saying it's appropriately going to be done in the future. That's the wish of the government.

Mr Brown: I think that's outrageous. I think the answer, "This is the way it's always been done," is not an answer that fits within this broad, new understanding of how we're going to manage the forest. An answer to a legitimate question that "We're going to do it this way because we've always done it this way" is clearly not what you're talking about in this act.

We're trying to talk about sustainability. You won't define sustainability, except in relation to some forest planning manuals. It's not clear now whether the forest planning manuals have to be drawn in respect to what's in the provincial park. You'll have to excuse us over here if we're getting thoroughly confused with the government's position on forests, the government's position on sustainability, the government's position on any of these matters.

Does the forester have to consider what's in the immediate—in all probability it's the same forest that just happens to go beyond the boundary of the provincial park. Does he have to understand the ecosystems in that provincial park and take those into account when he's planning for diversity and all those other wonderful things that we're being told he should plan for?

Mr Wood: I can go back to say that it's covered under the Provincial Parks Act, and there's management for it there.

Mr Brown: But the planning within the Provincial

Parks Act relates to the provincial park. It doesn't relate to the forest ecosystem. That's the difference; that's the point I'm trying to make. The professional forester is trying to manage for the forest—that's what you're telling him he's got to do—and it's the same forest, in many instances. You would think he has to make a consideration about what is proper to do on his management unit across the line in regard to the ecology of the provincial park on the other side of the line.

Mr Wood: Then he goes under the Provincial Parks Act.

Mr Brown: But that only plans for the provincial park. It's got nothing to do with him outside.

Mr Wood: Then you go to Bill 171 for the rest of it.

The Vice-Chair: Any further questions on any of the other sections?

Mr Brown: Mr Chair, I think we should vote on them one at a time, because some of them we will support and some of them we won't.

The Vice-Chair: That's requested. We'll certainly vote one section at a time. Any further questions?

Mr Brown: How far are we going?

The Vice-Chair: Sections 3, 4, 5 and 6.

Mr Brown: On section 5, just a question to legal counsel. Is this necessary in the act? We don't have the power to change the Constitution of Canada in any event, do we, at least not without the agreement of 70% of the provinces and half the population or some such formula that we haven't been very successful in doing.

Mr Beecroft: We don't have the power to change the Constitution of Canada, but I guess there could be an argument that something in this act adds to something that's in the Constitution. The provision says the act does not abrogate any aboriginal rights, it does not derogate from any aboriginal rights and it does not add to any aboriginal rights. This kind of provision has been placed in several statutes simply to indicate that it doesn't affect in any way for or against.

Mr Brown: I understand that. I just thought—

Mr Beecroft: Whether it's necessary is really a policy issue.

Mr Brown: Okay.

Mr Chris Hodgson (Victoria-Haliburton): I have a follow-up question for the parliamentary assistant. In section 4 when we're talking about the provincial parks, does that mean it's exempted from the report to the Legislature on the state of the forest within the provincial parks?

Mr Wood: Planning for provincial parks is done under the Provincial Parks Act. We're not amending the Provincial Parks Act right now.

1030

Mr Hodgson: I understand that. I'll come at it a different way. Is it mandated that there be a report to the Legislature on the state of the forest in the provincial parks under the Provincial Parks Act right now? What I'm getting at is that the people of Ontario should know the state of their forests and all crown land, even within the parks. If the government intends to amend the parks

act, let us know whether it's going to report to the people of Ontario. If you exempt it, nobody in the province will know the state of the forest within the parks, but if it's outside a park, there will be a report to the Legislature under this act. I'm just wondering if that's the intent of the government, not to report on the state of the forest inside the provincial parks.

Mr Wood: The intention was not to deal with provincial parks in this act because it's covered under the Provincial Parks Act. If at some point in time we decide to deal with other pieces of legislation and amendments are brought forward, I'm sure we'll be dealing with them and how they're going to be reported and things of this kind.

Mr Hodgson: Are there any plans, Mr Wood? That's what I'm asking. Are there any amendments for the Provincial Parks Act to make it report?

Mr Wood: The plan right now is to, some time next year, get another mandate to govern the province of Ontario for another four years, and I'm sure we'll be dealing with other pieces of legislation as we proceed.

Mr Hodgson: I'm sure that's made the people who are worried about the state of the forest within the parks sleep better at night.

Mr Gilles Bisson (Cochrane South): Just for the members to understand, there is an act called the Algonquin Forestry Authority Act, which has a responsibility for managing how we approach harvesting questions in Algonquin Park. Algonquin Park is the only park that happens in, the only one they do logging in, and it's under that, so it's reportable through that authority.

Mr Hodgson: I know that one. That's my riding.

Mr Bisson: And it's a policy issue, as the parliamentary assistant said.

Mr Brown: Mr Bisson just made my point. He is talking about a timber act. I'm not talking about lumbering in any of the provincial parks, timbering in any of the provincial parks. I'm just asking, and I think Mr Hodgson had a very good question, if you're going to ask about the state of Ontario's forests and leave out the significant land masses that are within the provincial parks system, and I understand there will be more, if you take that out and don't report to the Legislature, all you end up reporting on is the industrial forest of Ontario and you leave out the parts of the province that are under protection through the Provincial Parks Act and the various park plans that apply to each and every park.

We have provincial parks where you camp, where you do all kinds of things. We also have provincial parks that are wilderness classifications and the only thing you can do in those is canoe and hike, and that's great. But there are forests in those parks, and not to include them in the planning of the industrial forest is quite a remarkable statement for the parliamentary assistant to be making. Maybe 7% or 8% of the forests of Ontario are within those provincial parks, and your report will only be on the industrial forest area; it won't be on the crown forests of Ontario. And this is the Crown Forest Sustainability Act, I remind him.

Mr Wood: We're talking about two different things here. The statement I made earlier is that they're man-

aged under the Provincial Parks Act and Bill 171 is dealing with the crown forests outside of that. It's quite clear in the legislation, it's spelled out clearly, and there's no confusion or misunderstanding in my mind. It's quite clear, the intention and the way the legislation is written.

The Vice-Chair: Any further questions regarding sections 3, 4, 5 or 6?

Mr Brown: I have a question on section 6. It says, "The minister may designate all or part of a crown forest as a management unit for the purposes of this act." Can the parliamentary assistant tell us if the minister has any intention of having the management units align with the ecological units?

Mr Wood: Would you repeat that?

Mr Brown: It says here, "The minister may designate all or part of a crown forest as a management unit for the purposes of this act." Is there an intention, as we are in this bill attempting to manage forests on an ecosystem basis, to align the crown units that he can designate with the ecological units that he is about to decide somehow where they are and how they work, or will they be the relatively arbitrary boundaries that we have today?

Mr Wood: In the management of the units, there has always been a process of negotiations between the large holders and the province as the landlord. Those negotiations are taking place right now and have been for several months, on converting a lot of those management units with their FMAs over to silvicultural management units or licences, and some agreements are in place. You've probably seen copies of the press releases. There are agreements that the province works out with some of the major holders. As to the other part of it, I don't really see where you're coming from on that.

Mr Brown: I'm just trying to get at this: Is there going to be any effort made to align the crown management units or the FMAs or whatever with the ecological units that I presume over time somebody's going to decide what they are?

I understand the commercial side of this, that you've got to negotiate between various people who want the wood—great. What I don't understand, and what I want to understand, is whether the government is going to try to align the management units with the forest, with the ecosystem? You're the one who's talking about ecosystems, you're the one who's talking about forest ecosystems. Is there going to be any attempt to redraw the boundaries with regard to ecosystems or are they going to be just left to commercial considerations, which I guess is the way they are now? I just want the answer. I'm not expressing an opinion.

Mr Wood: It would give the power to do this, if the need were there. We could manage them on the basis of ecosystems as they're defined. It would give minister the power to do that.

Mr Brown: I understand it would give the minister the power. I'm asking you about a policy decision, because it's not spelled out in the act, is it the intention of the government to do that? I recognize it gives them the power. It's a question of intention. Is there a policy that we should do it or we shouldn't do it?

Mr Wood: There's continuing research into being able to match the two concepts together. A lot of that work was done under the sustainable forestry policy initiative in focusing on those problems.

Mr Brown: In other words, we don't know. There's a second question that would arise from that. It says, "The minister may designate all or part of"—and this is the key word—"a crown forest." Does that mean a management unit could not include parts of two crown forests?

Mr Wood: "The minister may designate all or part of a crown forest as a management unit for the purposes of this act."

Mr Brown: Yes. Therefore, the question is, could one of those management units include two crown forests or parts of two crown forests? That's not what it says.

Mr Wood: There are 100-and-some management units out there right now and we're talking about setting up trust funds. There are going to be 100-and-some trust funds set up, and they're going to be there to manage the reforest and the—

Mr Brown: I understand that. My question is, could you have parts of two different crown forests in one management unit?

Mr Wood: The minister could do that under that section.

Mr Brown: But this would prohibit him from doing it.

1040

Mr Wood: What you're dealing with there is "all or part of a crown forest."

Mr Brown: "A" crown forest. What if you've got two different crown forests?

Mr Wood: You've got to deal with them as two separate issues.

Mr Brown: So you're saying the minister could not place two different crown forests in the same management unit or parts thereof?

Mr Wood: Here you're talking about one particular crown forest, and then there might be another one. You can talk about another crown forest and part of it. As I said, you could have any number of decisions being made out there, I would think.

Mr Brown: Maybe legal counsel could tell me. I guess this is a technical question. In your view, could that happen?

Mr Beecroft: There's a general principle, in interpretation of statutes, that use of the singular always includes the plural, and there's a provision in the Interpretation Act that says that. So when this section says you can include "a" crown forest in a management unit, I think you could include several. The minister has that discretion.

Mr Brown: You think the wording would permit the flexibility that I believe the parliamentary assistant wants.

Mr Beecroft: Yes.

Mr Brown: Thank you.

The Vice-Chair: Any further questions? Mr Hodgson.

Mr Hodgson: I'd like to follow up on Mr Brown's line of questioning, the second part of his question. It says, "The minister may designate all or part of a crown forest as a management unit for the purposes of this act." The Ontario Lumber Manufacturers' Association had a recommendation, and I'm wondering about the government's thoughts on why it didn't take it.

"All productive forest on crown lands within a management unit shall be managed for the long-term production of industrial wood fibre in accordance with an approved forest management plan." The OLMA also proposed an additional clause to emphasize that productive forest land be managed under the plan for the supply of industrial fibre wood.

I think their concern is that under section 15 of the act, "If a person fails to prepare a forest management plan or work schedule that the minister has required...the minister may cause it to be prepared, and the person is liable to the minister for all costs associated with the preparation of the plan or work schedule."

You want the industry to make up the plan for the whole area or part of the area, more than just what their interest is in, and that's the industrial wood supply. It goes back to what we were talking about yesterday, about having a land use plan. David Balsillie from the MNR the first day talked about how they're trying to establish values for other uses of the forest. I'm wondering if you've made it more clear, if the ministry's thought about that.

Over time, it will be developed, but right now we have a fairly good grasp on timber as one component of the forest ecosystem, and as we get more values that we want to create—we wouldn't want the industry, for instance, drawing up the plan for the moose habitat. The problem is, you can design a moose habitat for 20 moose or for 50 moose, and where would their interest be? The ministry should retain that power for all the people of Ontario, I would think, and the industry doesn't want to pay for it if they're not going to be actually using that portion. I was just wondering if you had any comments on that.

Mr Wood: Any planning out there is going to have to have regard for other values. Sure, a tree is a value to a sawmill or a processing plant, whatever it is, but there are other values that we have to have regard for, and when they're planning for that, they have to have regard for these other values out there.

Mr Hodgson: So you feel confident that having the industry draw up the plan for the whole management unit or part of it, as may be designated by the minister, the people of Ontario are protected with regard to all these other things, when their main, primary interest is in the timber?

Mr Wood: Their interest could be that, if all the moose population is destroyed in that unit—

Mr Hodgson: I realize they have the same interests as everybody else in Ontario, but the MNR used to balance that. If you had to plan for 20 moose or 50 moose, you have to build a measure to say you're accountable. "Having regard to" is a slippery slope, I would think. Is it the ministry's vision that eventually it

will have a land use plan and identify what the objectives are?

Mr Wood: Professional foresters know what the objectives are out there and they're going to be involved in the planning, having regard for other values. They're well aware, and there are other people they can consult with to find out, if they're not sure themselves, what other values out there have to be considered.

Mr Hodgson: So you've looked at the OLMA's recommendation and rejected it, or you didn't feel it was necessary.

Mr Wood: We didn't feel it was necessary. That's why there is no amendment.

The Vice-Chair: Are we ready to vote? We'll take one section at a time.

Section 3: All those in favour? Opposed? Carried.

Section 4.

Mr Brown: I think we need 20 minutes.

The Vice-Chair: You're asking for a 20-minute recess? We'll stand adjourned until 11:10.

The committee recessed from 1047 to 1112.

The Vice-Chair: This committee will continue its consideration of clause-by-clause of Bill 171. I did call for the vote, so we are voting on section 4.

Mr Brown: A recorded vote.

The Vice-Chair: A recorded vote. All those in favour of section 4?

Ayes

Bisson, Dadamo, Duignan, Jamison, Waters, Wood.

The Vice-Chair: All those opposed?

Nays

Brown, Carr, Hodgson, Miclash, Morin.

The Vice-Chair: Carried.

We will now vote on section 5. All those in favour of section 5? Opposed? Carried.

We will be voting on section 6. All those in favour of section 6?

Mr Brown: A recorded vote.

The Vice-Chair: A recorded vote.

Ayes

Bisson, Dadamo, Duignan, Jamison, Waters, Wood.

The Vice-Chair: All those opposed?

Nays

Brown, Carr, Hodgson, Miclash, Morin.

The Vice-Chair: The motion carries.

We are now on section 7, and there are amendments. I would like to propose to the committee that we not vote each time the particular amendment would be effective but vote on all these sections wherever "forest management plan" is used in the whole bill, if that's agreeable with the committee. If we pass the motion that is before us, wherever "forest management plan" appears, it would be replaced by "forest resource management plan," if that's agreeable to the committee that we proceed in this fashion. Mr Hodgson, you had the amendment.

Mr Hodgson: I move that the bill be amended by

striking out "forest management plan" wherever that expression appears and substituting in each case "forest resource management plan."

For the information of the committee, I've listed each section where it applies. This amendment really goes back to subsection 2(1), where we were to redefine "forest resource" as being timber. The rationale behind this comes from the industry's concern that this subsection 7(1), under "Forest management plans," that "The minister shall ensure that a forest management plan is prepared for every management unit," is inconsistent with the Environmental Assessment Board ruling's terms and conditions, where it states that a timber management plan will be prepared for every unit.

The present definition and the way it's worded, with "forest management plan," it encompasses more than timber. It's the intent of this bill to be sustainability for the whole forest as an ecosystem, but for the industry, their direction from the EA, which is law now, is that they have the authorization to prepare a timber management plan. There's a huge difference between a forest ecosystem plan and a timber management plan. If you have a forest ecosystem plan, it takes into account a whole number of different areas and concerns from a timber plan.

This amendment is trying to clarify specifically what the industry should take into account when preparing this plan, and as the ministry gets more information on other important values they should be consistent with those other values. But to state right up front that the industry's going to pay for and draw up a plan to take into account the whole ecosystem—they don't have the legal ruling to do it, and I'm not sure whether the people of Ontario want them to make the plan for the whole forest ecosystem and not just the timber component.

That's the rationale behind the amendment, and if the government agrees to this, I would hope it would maybe make its own amendment and define "forest resource management plan" as meaning the timber component.

Mr Wood: First of all, we are not prepared to accept the amendment. With the words you're putting in there, you're talking about timber plans, and Bill 171 is not a timber act. It could be inconsistent with the class EA if we were to agree to the wording you've brought forward; the EA says we should be moving towards forest management, not necessarily dealing with timber. This Bill 171 is not the timber act that we might hear some people on the committee referring to; it's a sustainable forestry act.

Mr Hodgson: I'm quite aware it's a sustainable forestry act. What I'm saying is that it should be broken out, that the sustainable forestry part of it should be an umbrella and underneath that you should make it clear which group is paying for which development of that plan.

The EA board decision, as I was made aware, in the very first item under the terms and conditions, states that a timber management plan will be prepared for every unit. The act as it's presently written encompasses that the industry will prepare more than just a timber management plan. That's what has some people in the industry concerned, that this is inconsistent with the EA ruling.

Your opinion is that it isn't inconsistent.

Mr Wood: I've listened to that interpretation from a number of people who have come to my office and lobbied on that, and I disagree with them.

Mr Brown: You will not be surprised that I support my friend's amendment, as we have the identical amendment, which I'm sure you will rule out of order after this one is voted on.

We need some help when we deal with this area. We have a problem all through this bill of comparing the timber management EA's terms and conditions with the bill and the act. As laymen, and not lawyers, we are not sure which takes precedence, the act or the terms and conditions for the EA, and which one will have legal effect. If there is a contradiction between the terms and conditions of the timber environmental assessment, we need to know whether the act or the order of the environmental assessment takes precedence. That's something the committee really needs to know now so we can understand, where there's a conflict or an apparent conflict between the two—the act and the environmental assessment terms and conditions—which one would take precedence and how that will be dealt with.

1120

Mr Wood: We must meet the EA. We've said that in the Legislature and we've said that through press releases. The EA says we can move beyond that in management. The bill we have drafted is consistent with the EA, and it's a legal requirement that we must meet.

Mr Brown: You're aware that, for example, disparate groups like the Ontario Forest Industries Association and the Canadian Environmental Law Association take the view that there are contradictions between the EA terms and conditions and this bill.

Mr Wood: They're entitled to their view.

Mr Brown: They're certainly entitled to their opinion. My point is that one is an association of lawyers and the other is an association of some of the largest players in the industry in Ontario, both of which I presume can afford lawyers. As legislators we should be trying to minimize the opportunities for legal interventions, when we're drafting legislation, rather than see it subject to endless litigation in the courts.

What we're looking for is an assurance that the terms and conditions are being met in this act and that we will not see, at tremendous expense both to people interested in this issue and the government of Ontario, legal battles in the courts over which one takes precedence and whether they are in fact consistent. And this section is a good place to start.

We have heard an opinion from the minister that they don't believe that to be so, and I wouldn't expect the ministry to say otherwise, but I'm wondering if the government would consider having independent legal counsel retained by the committee to examine these issues. There is some precedence for committees asking for independent legal opinions, and I'm just wondering if we could save the people of Ontario a tremendous amount of money spent in court by getting a legal opinion from an independent source that may help us understand this issue

and minimize the amount of time spent in courtrooms from one end of the province to the other.

I think you can understand the reluctance we have when we have at least two groups that represent large concerns in the province of Ontario suggesting that what you're saying is not correct. We have no way of knowing—we're not lawyers—whether what you're saying is correct or isn't correct, and we'd like some independent advice about who's right and who's wrong so we can minimize the legal costs to the province in the long term.

Mr Wood: I'm not a lawyer, but the advice we are getting—and yesterday again I spent a considerable amount of time reassuring myself and the ministry that our view is consistent with the EA. There is a view, and it's spelled out in black and white in the EA, that we can move beyond timber to what we're proposing in Bill 171, and at this point in time I don't see the need to get an independent view on that.

There are all kinds of people out there who have all kinds of different views and interpretations and put their own spin to what they see. Our view is that Bill 171 is consistent with that, and as a result we're not prepared to support the Conservative amendment that has been brought forward or the Liberal amendment that will be discussed afterwards. We feel it's going back to timber, and we do not want to deal with timber as timber only, even though you've made a number of comments over the last couple of days that you feel that if you put the word "timber" back in there, in a lot of areas it would mean the same old act of 1952. We don't feel that way. We feel that Bill 171 is moving into the future and it meets the terms and conditions of the EA.

Mr Brown: You certainly are cutting-edge guys. Regardless of that, my concern—you've mentioned that the EA, as you understand it, says we can go beyond the rulings of the timber EA. In fact, though, there may be instances in this act where we are doing less than is required under the timber environmental assessment. In that case, there is obvious opportunity for intervention. I don't know. I'm like you: I'm not a member of the bar.

The committee, in the interest of the people of Ontario, needs to know what the ramifications of being in contravention of a timber EA term and condition would mean to the legality of certain sections of this bill.

We certainly have a point of view that if this bill were properly called the crown forest timber act or the crown timber act, a lot of this would not be necessary, but because it's masquerading as something it is not, it has created a lot of problems for a lot of people. When I hear from the Ontario Forest Industries Association that it believes this contravenes the EA terms and conditions, and when I hear from the Canadian Environmental Law Association that this contravenes the terms and conditions of the timber EA, I get concerned. I'm happy that you take the advice of your own minister, but as legislators we may want to try to satisfy ourselves that the ministry, as always, is correct.

Mr Wood: All I can say is that I disagree with the interpretation you've put on it. I know there's no need for any further investigation because of the advice we have in drafting this. We're not prepared to support the amend-

ment that the Conservative Party has brought forward because we feel we would be inconsistent with the class EA if we were to adopt the amendment, and the same thing will apply to the amendment you propose. I don't know of stronger language I can use to say I disagree with your interpretation of what you're hearing, Mike.

Mr Brown: Is the parliamentary assistant saying he didn't hear from the forest industries association and from CELA that they both thought this contravened sections of the timber EA?

Mr Wood: I'm not saying that. I'm saying I disagree with them.

The Vice-Chair: Okay.

Mr Brown: Okay what? Perhaps we could get clarification. We do have the odd lawyer in this room. I'm not one, and Mr Hodgson isn't one, and Mr Wood isn't one. Perhaps we could have the ministry lawyers come to the table and speak to this.

The Vice-Chair: No, Mr Brown, I don't think that would be permissible. You can ask a question to legislative counsel if you wish, otherwise Mr Wood is here to speak on behalf of the ministry.

1130

Mr Brown: If Mr Wood isn't prepared to have the legal advice from his own ministry come forward, I will ask the legal counsel of the committee what would happen in the event that a timber environmental assessment term and condition is in fact changed or lessened, not added to, that the responsibility is lessened on someone who's governed by that class EA.

Mr Beecroft: I'm afraid I really can't answer the question because I am not familiar with the details of the EA decision, and that would require some careful study of the decision.

Mr Brown: Good answer. Given the fact that legislative counsel doesn't feel competent, given that he hasn't examined the terms and conditions, perhaps the parliamentary assistant might ask the legal advice of his own ministry to answer that very straightforward question.

Mr Wood: I'm saying we disagree with the amendment as it's brought forward by the Conservative caucus, and I have no further debate on that particular amendment.

The Vice-Chair: Are we ready to vote?

Mr Brown: I think we probably need it recorded.

The Vice-Chair: A recorded vote. All those in favour of Mr Hodgson's motion to amend and, as specified, that if this carry it would carry in the various sections that are identified on the PC motion? All those in favour?

Ayes

Brown, Carr, Hodgson, Michash, Morin.

The Vice-Chair: All those opposed?

Nays

Bisson, Dadamo, Duignan, Jamison, Waters, Wood.

The Vice-Chair: The motion is lost.

Of course the next motion, as it is identical, would be out of order. However, there is another Liberal motion, regarding subsection 7(3).

Mr Brown: I move that subsection 7(3) of the bill be struck out and the following substituted:

"Preparation

"(3) A forest resource management plan shall be prepared in an open consultative fashion by a professional forester who shall be the plan author and who shall be assisted by an interdisciplinary planning team and a local citizens' committee, with opportunities for ongoing participation by interested and affected persons and organizations and by the general public."

This amendment I believe clarifies what the process will be by the professional forester in preparing the plan. I think one of the key words is "author" rather than "certify," and it makes clear that there will be a number of people with expertise that the professional forester may or may not have and participation by the local citizens' committee, and it guarantees an ongoing participation by the interested and affected parties and organizations. We believe that the word "author" is critical, that this is what is described in the timber EA process terms and conditions, and we believe that this is a substantial improvement over the wording of the government's section.

Mr Wood: This is clearly addressed under the EA decision on timber. We're bound by the Environmental Assessment Act and we don't feel it is necessary to detail these requirements in the bill.

Certification by a registered professional forester is consistent with the EA decision, and as a result of that we feel no reason to support this particular amendment.

Mr Brown: Actually, you're wrong. Term and condition 2 states that a timber management plan will be authored by a registered professional forester, not certified by a registered professional forester. There's a difference. We believe the registered professional forester should be involved in all planning aspects of the forest. He or she should be the one who writes the plan with the assistance of other professionals he or she may need, but it goes beyond the certification of a plan after it has been prepared.

The timber EA in its terms and conditions specifically says "author," not "certified." We have no problem with the certification either, but the "author" part of it is the part that is consistent with the timber EA. If you're saying a registered professional forester does not need to author the management plan, I would be surprised, and I think you would be in contravention of term and condition 2.

Mr Wood: If you're going to have a plan and a professional forester is going to certify it, that should be—

Mr Brown: But what you're saying is that the professional forester need not write it. There's a difference.

Mr Wood: I could get into an argument and drag it out for a long time about who writes your speeches, Mike, whether you write your own speeches—

Mr Brown: Nobody would take credit for my speeches.

Mr Wood: —or whether you do all your work as an MPP by yourself. If you want to get into those arguments, we could drag this out for ever.

The Vice-Chair: I think we'd better stay with subsection 7(3).

Mr Wood: I think certification of it is making sure it meets all the requirements. That's all I have to say.

Mr Brown: Well, yes, but we're back to the question that I think we just went through in the last amendment that was turned down by the government. This is clearly, in my view, in contravention of a term and condition of the timber management class EA. Term and condition 2 clearly says it will be authored. "Certified" is not the same thing, no matter how you might want to believe that. I think my friends in the Ontario Forest Industries Association and my friends in the Canadian Environmental Law Association will both see it that way, and again I think we will be into the litigation that you are trying to stop.

There is a difference between the wording of the class EA and the wording of this amendment. It actually says less. This is one of those points where it's not adding to, although "certified by" might be considered adding; but taking away the authoring is clearly different from the terms and conditions of the environmental assessment.

Mr Wood: I disagree with you.

Mr Brown: And you're a lawyer.

Mr Gary Carr (Oakville South): If the parliamentary assistant would look at the forest industry presentation, they say exactly what Mr Brown is saying, so essentially the parliamentary assistant disagrees with them as well. On page 4 of the brief they gave us, they're saying the exact same thing Mr Brown is. Quite frankly, I trust the Ontario Forest Industries Association over the parliamentary assistant on this. They say very clearly that this act should be consistent with the EA Board. They voice their concerns, they lay it out under this section, and they put their recommendation.

Again what we're seeing is another case of the Ontario Forest Industries Association coming forward with a very detailed brief and the government saying, "Sorry, we're not going to listen to you on this." It's one thing not to take some of the advice of the opposition, but the forest industries association brought a lot of these comments forward in good faith, hoping they would be taken seriously by the government. So when you're disagreeing with the opposition parties on this point, you're also disagreeing with the people in the industry who are trying to be constructive and tell you to be consistent with the EA Board, as they've outlined in their recommendation. I just want to make that clear, that the parliamentary assistant is disagreeing with the Ontario Forest Industries Association's presentation as well.

Mr Wood: Our interpretation, as far as we're concerned, is that it will meet the EA. I don't want to get into a long debate over the definition of "certified" versus "author." That can drag out for ever. There are definitions out there, but we feel the definition we have there, the way it is, meets the EA decision. That's it, Mr Chair.

Mr Brown: We have some lawyers in the room. Perhaps I could ask legislative counsel if, in his opinion, the words "author" and "certified" are the same.

Mr Beecroft: It's very difficult for me to comment on

the timber EA without knowing the entire context of the EA. If you simply take these words out of the EA by themselves, I don't see a conflict. It's possible to comply with both these words and the provision of the act. I don't see any conflict.

Mr Brown: In other words, authoring and certification are the same?

Mr Beecroft: No, not necessarily. They may be. I would have to look at the timber EA to get a sense of what they intended by "author." All I'm saying is that it's possible to comply with both the timber EA and the provision of the bill at the same time. If you comply with one, you're not necessarily contravening the other. It is possible to comply with both, so there's no conflict.

Mr Brown: We have the ministry's lawyers too. Would they be willing to make a comment?

Mr Wood: I don't see why we should be placing different lawyers against each other. I know that's what you would like to do.

Mr Brown: I think the people of Ontario would like us to do that.

Mr Wood: In your interpretation, and I disagree with your interpretation of that again, Mr Brown.

Mr Brown: I think the people of Ontario presume that legislators will do all in their power to avoid getting the government into costly court fights.

Mr Wood: And that's exactly what we're doing.

Mr Brown: Well, we're real happy with your word on that.

The Vice-Chair: Are we ready to vote?

Mr Wood: Yes.

Mr Brown: We'll need 20 minutes for sure.

The Vice-Chair: You're calling for a 20-minute recess? We will be back at 2 o'clock then. This committee stands adjourned until 2 o'clock, at which time we'll be voting on the Liberal amendment to subsection 7(3).

The committee recessed from 1144 to 1413.

The Vice-Chair: We are continuing clause-by-clause consideration of Bill 171.

I have called for the vote on the Liberal amendment to subsection 7(3). All those in favour?

Mr Brown: Recorded vote.

Ayes

Brown, Carr, Hodgson, Morin.

The Vice-Chair: Opposed?

Nays

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: The amendment is lost.

There is a further amendment to section 7, from the Conservative Party.

Mr Hodgson: I move that section 7 of the bill be amended by adding the following subsection:

"Objectives

"(4) Forest management objectives and strategies will include non-timber values which are forest-cover-dependent, such as wildlife habitat and recreational activities."

If I may be permitted, I'll speak. I realize that there are time constraints on our thoroughness of clause-by-clause.

The Vice-Chair: I appreciate that you realize that.

Mr Hodgson: The Forest Management Planning Manual will play an extremely important role in accomplishing the goals of Bill 171. We believe, along with groups that have come before us and made presentations, that it's crucial that there be an explicit objective in each of the forest management plans for non-timber values and alongside wood supply objectives, that forest-based hunting and fishing be explicitly included as recreational values and activities.

I think that's the goal of this bill, to be more than just a timber management plan, to cover the forest as a whole. This is quite consistent with the stated objectives and goals of Bill 171, and I would expect there'd be very little opposition to this.

Mr Wood: The EA ruling deals with this and gives clear direction and objectives, targets, strategies. It's covered in the Forest Management Planning Manual and we'll be covering this under section 66(2)(b), so we'll be not supporting this amendment.

Mr Brown: We of course will be supporting this amendment, as we believe that objectives and strategies in the forest need to include non-timber values. Especially for many groups, including the Ontario hunters and anglers, forest cover is very important for wildlife habitat and certainly for recreation activities. I think it behooves the government to support that.

Mr Wood just made a very interesting comment. He suggested that this is covered by the timber EA and therefore the terms and conditions require the government to do it anyway. We have heard from the ministry staff, however, that the timber EA covers only the area defined in the timber EA process and that there are some lands in Ontario, some crown lands and crown forests, which are not subject to the timber EA.

We heard earlier from the government, as a rationale for including some of these things, "We had to make sure that that crown land and those crown forests were covered."

In this case, the parliamentary assistant seems to be making exactly the opposite argument. I would ask the parliamentary assistant if it is not correct that the timber EA does not include all the crown forests in Ontario. Am I misunderstanding that?

Mr Wood: I guess I should clarify it a little more. I didn't want to confuse anybody. Under 7(2)(b) it says, "have regard to the plant life, animal life, water, soil, air and social and economic values, including recreational values and heritage values, of the management unit." This to a certain degree takes care of what had been suggested in this amendment. We think it's covered. Section 66 clarifies it as well.

Mr Brown: If I understand, your argument is that it is already covered so this is redundant. Is that what you're saying to me?

Mr Wood: Yes.

Mr Brown: If it is, could I ask the parliamentary assistant what harm it would do to have this contained in

the document. We think it spells it out more clearly than the section you just quoted.

Mr Wood: You're saying non-timber values, but (b) is really pretty specific, covering a large area, including, "plant life, animal life, water, soil, air and social and economic values, including recreational values and heritage values, of the management unit." It covers a lot more than just non-timber values.

Mr Brown: But this is an addition just to clarify that these are elements we want to have considered. I don't see what the problem is in including it. You may not think it's helpful, but certainly Mr Hodgson believes it's helpful and I believe it's helpful.

Mr Wood: My only response to that is that we don't think it's necessary to have repetitive clauses in legislation.

Mr Hodgson: If it pleases the government, I'd be willing to amend it to make it 7(2)(b) in addition to that; it wouldn't be repetitive but it would just be more clarification on the existing 7(2)(b).

Mr Brown: I really don't quite follow. How would you—

Mr Hodgson: If I follow the government's argument, he's worried that it's a repetition of clause 7(2)(b) if I made it subsection 7(4). What we're trying to achieve here is just more clarification. So if you made it 7(2)(b), with the addition, "Forest management objectives and strategies will include non-timber values which are forest-cover-dependent," I think that's the key. We're talking about removing forest cover, "such as wildlife habitat and recreational areas," for example, hunting and fishing. It just makes it clear.

What the parliamentary assistant is referring to in the forest management, section 66, is still not clear enough. Maybe it could be reworded there as well, just to make it a little more obvious or clear for future generations to see the clear intent of this bill is to cover more than just timber.

1420

Mr Wood: The manuals are dealing with the specifics of that, and also the EA details clearly in this area. As I said before, 7(2)(b) really covers what you're trying to achieve in non-timber values and areas that are forest-cover-dependent, such as wildlife habitat and recreational activities. All of those values are covered under 7(2)(b), and our EA deals with them, as do the manuals deal with them. We feel that it's well covered right now and it would be repetitive to include this in legislation.

Mr Hodgson: In the interest of time, I don't want to belabour this point, but "have regard to" is different from the forest management objectives and strategies "will include." If you could, instead of "have regard to," just say the "forest management objectives and strategies will include non-timber values," that's different from just "have regard to." I'm not a lawyer, but I think we're quibbling over—if you're satisfied that the intent of this bill meets the objectives of this amendment, I can't see what harm it would do in putting it in; let's put it that way.

Mr Wood: I'm not a lawyer either, but this legislation

wasn't just drafted in the dark. A large number of people, including our legal people, were involved in drafting it.

The Vice-Chair: Are we ready to vote?

Mr Brown: No. I asked a question about the application of the timber EA outside the area where the timber EA was based. The parliamentary assistant told me not to worry, that the timber EA had those conditions in it and those would have to be followed, but there are parts of the province that are covered by this act that were not subject to the timber EA.

Mr Wood: I'm not sure which areas you're talking about.

Mr Brown: I'm not exactly sure either, other than the ministry told me, and I was aware it didn't cover all the crown forests. The class timber environmental assessment process had a defined land base, and this bill includes lands that were not within that land base, is my understanding. Perhaps a ministry official could clarify that, but I believe that's what they told us. Yes or no?

The Vice-Chair: We don't seem to be making much progress here. Are we ready to vote?

Mr Brown: I think we deserve an answer to that.

The Vice-Chair: I don't hear any answer forthcoming.

Mr Brown: Certainly, somebody out there knows the answer.

Mr Wood: I don't have the EA ruling here with me.

Mr Brown: But I'm certain someone from the ministry knows the answer to my question. It's just yes or no, it's all included or it isn't.

Mr Wood: You're saying this bill covers all crown forests and the EA doesn't cover all the crown forests.

Mr Brown: That's right.

Mr Wood: I don't really see that being an argument at this point in time.

Mr Brown: I just want to know if that's right. This bill covers all the crown forests and the timber class EA did not cover all the crown forests, is what I understand. If I'm wrong, we could have somebody just tell me that.

Mr Wood: That's quite possible, that it didn't cover all of the—

Mr Brown: And therefore the terms and conditions wouldn't apply to areas that were not included in the class EA—I think, but I would just like somebody to tell me. It's a legitimate question that deserves an answer. As we read this act, we always have to read this act using the terms and conditions to augment it, and if it doesn't always augment it, we have to know that too and have to know where it doesn't. It makes it very difficult to deal with the bill when we don't know that.

Not being a lawyer, I don't know. Maybe the class EA governs other crown lands that weren't included in the timber EA also, I don't know, but I'm sure somebody can say yes or no really quickly.

Mr Wood: Regardless, I don't really see what your question has to do with Bill 171. We're saying we're going to accept all the terms of the EA and you're saying it doesn't—

Mr Brown: Yes, but there are parts of the province where the terms of the EA may not apply. Therefore, we would have to use 171 as the legislation governing the forest in that area. Occasionally, you make the argument that the timber EA spells that out and we don't need to put it in the act, but there are areas in the province, so I understand, that aren't governed by the timber EA.

Mr Wood: That's quite possible, but I don't understand where you're coming from. Bill 171 covers all crown forests, the forest manuals and the regulations are going to cover all crown forests, and even if the EA didn't cover all of the crown forests, it's not a point of argument, as far as I'm concerned, at this point in time.

Mr Brown: You don't think it's a point of argument, but there will be areas of the forest that are subject to, because Bill 171 doesn't speak to it, or that rely on the terms and conditions in order to clarify certain issues. There will be some of the province that that clarification isn't available to 171, without it being spelled out directly in Bill 171. Am I not clear here?

Mr Wood: I'm saying that for whatever areas of the province the EA covered, we're bound by that, we've agreed to that, we accept the terms of the EA, and Bill 171, along with the regulations and manuals, covers all of the crown forests. It's something we're proud of, that's going to take us into the future and create jobs and sustain the communities and protect the jobs that are out there. It will be good legislation for the next 30 or 35 years, until it's amended somewhere down the road.

Mr George Mammoliti (Yorkview): I'd like to get an indication of whether the answer to that is going to change your vote. We're voting on a motion here, right? Depending on the yes or no to your answer, will that change your vote?

Mr Brown: It may not change my vote, but it certainly affects the way we look at every section as we go through this bill. Unless you want me to ask the same question about every section, it would be useful to clarify that now.

The Vice-Chair: It would seem to me that we've had a good discussion on this amendment and we're probably ready to vote. That would be my feeling. Are we ready to vote? Okay, we're ready to vote.

Mr Brown: We may need 20 minutes. Mr Chair, we'll try to round up our colleague from Kenora, and I might be able to find out the answer privately in the interim.

The Vice-Chair: You're requesting a 20-minute recess? The committee stands recessed for 20 minutes.

The committee recessed from 1430 to 1454.

The Vice-Chair: We are on Mr Hodgson's motion to amend section 7 of the bill. All those in favour of Mr Hodgson's motion?

Mr Brown: Recorded vote.

Ayes

Brown, Hodgson, Micalash, Morin.

The Vice-Chair: All those opposed?

Nays

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: The motion is lost.

This concludes the amendments I have before me regarding section 7.

Shall section 7 carry? All those in favour? All those opposed? Carried.

Section 8: We're moving on to section 8 with tremendous speed. I do have a Liberal motion in front of me regarding subsection 8(2).

Mr Brown: I move that subsection 8(2) of the bill be struck out and the following substituted:

"Criteria for approval

"(2) The minister shall not approve a forest resource management plan unless the minister is satisfied that the plan provides for the sustainability of the forest resource, taking into consideration non-timber values that could be affected by timber management activities."

The Vice-Chair: Do you want to give an explanation?

Mr Brown: I would be happy to. The problem with the original text is that the minister has great problems dealing with the sustainability issue again. We have, for example, many people who have expressed concern about this section. "Without a framework in the act that outlines what is sustainable in some format, the act as written appears to give the minister powers based on his judgement of what is sustainable and not what is or what may be sustainable in a more scientific term." That came from NOTOA, the Northern Ontario Tourist Outfitters Association. Northwatch, in a similar vein, says, "Give some body or definition to sustainability," and they want this in the purpose section, which it is not. Other people are concerned that the minister is going to take the time to actually investigate it himself.

We, in our amendment, have all those same concerns, but are also making it clear that we must take into consideration non-timber values that could be affected by the timber management activities.

I further have more concerns about this section in that one of the things that always concerns me is that there's no time limit in terms of the minister's approval. As any member in this Legislature knows, time is important. If you have a plan that is about to be approved, one of the things you want to know is that it will be approved in a timely manner, and I don't understand here where the minister's under any time constraint to actually deal with the plan in a timely manner.

Nevertheless, I put this amendment forward, and we can make arguments on the broader section later.

Mr Wood: We will not be accepting this amendment. We will be voting against it because we've already dealt with the definition of sustainability, and subsection 8(2) as is in the act is pretty clear and covers what we're talking about. We don't want to focus strictly on "timber" or "non-timber." We talk about all values out in the forest.

Mr Brown: The concern here is that there are no firm specifications or goals that the author of a plan may have put before the minister, and therefore no one knows for sure what the minister is going to understand to be sustainable. We see absolutely no indication that any goals, specifications, will be put in front of the person

drawing the plan, the certified or registered forester, and in that case, it gives the minister huge powers to interpret sustainability in virtually any manner he wants. There are no goals, there are no specifications, and if I'm putting a plan before the minister, I would like to know that there's some certainty I'm meeting his goals and objectives, even though I don't know from this bill how you could ascertain that in advance.

Maybe the parliamentary assistant could tell us how a minister is going to interpret sustainability. After all, it's coming from a registered forester who has drafted the plan. Is the minister then going to say to a registered forester, who has the appropriate education, that he doesn't know what sustainability is, as he interprets the definition provided in the act only for forest planning? Is that conceivable?

Mr Wood: Your argument is that you would've liked to have seen something else in the purpose clause. We've dealt with the purpose clause. The determination for sustainability will be in the Forest Management Planning Manual as per subsection 1.1(2). I don't think we have to be repetitive in dealing with that.

Mr Brown: Will there be goals and specifications in the forest planning manual? I have seen none in terms of numeric goals or sustainable yield or anything that might be understandable to a forester in a quantitative way.

Mr Wood: Foresters are involved in writing the manuals.

1500

The Vice-Chair: Any further debate on the Liberal amendment? If not, I guess we're ready to vote. All those in favour of the Liberal amendment to subsection 8(2)?

Mr Brown: A recorded vote.

The Vice-Chair: A recorded vote.

Ayes

Brown, Carr, Hodgson, Miclash, Morin.

The Vice-Chair: All those opposed?

Nays

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: The motion is defeated.

As there are no other amendments to section 8, I'd like to—

Mr Brown: Could we have a discussion on the section as a whole?

The Vice-Chair: Okay, discussion on the section as a whole.

Mr Brown: I just want to reiterate and ask the parliamentary assistant for some assurance of time lines for the ministry dealing with the approval of these plans. I know in the past many governments have had great difficulty dealing with five-year plans in a timely manner for companies and individuals. It has been an ongoing source of some frustration, as the ministry has taken longer than the people who have put the plan in would like; that often costs the companies and individuals substantive moneys, not because there's anything wrong with the plan but because the minister hasn't had the opportunity to vet the plan appropriately through the

ministry and hasn't got around to actually signing the plan. Are there any indications from the ministry that the ministry will set a 30-day time line or a 60-day time line or whatever might be appropriate?

Mr Wood: MNR will endeavour to have this done in a timely fashion so as to not disrupt operations out there.

Mr Brown: Could you indicate an approximate time the ministry might consider for the approval of the plan? Would the ministry believe it takes, after the plan's submitted, 30 days, 60 days, 90 days, to actually approve the plan? Or to make a decision, I guess; it would be possible to make a decision not to approve a plan.

Mr Wood: I'm not prepared to spell out 30 days or 60 days or whatever at this point in time, but as I said before, we will endeavour to have everything done in a timely fashion so as to not disrupt operations out there. If there has been a problem out there in the past we are obligated to correct those situations out there, and we'll endeavour to do that.

Mr Brown: I appreciate the assurance, and I'm certainly not pointing fingers at this government. This has happened under all three governments—

Mr Wood: I'm well aware of that.

Mr Brown: —and it's not something that is unique to this one. I'm always nervous when we leave it that open-ended, however, without any kind of assurance. What's timely to the ministry certainly may not be timely to anyone else. I think the new Planning Act is suggesting reasonably tight time frames. Would the parliamentary assistant be averse to us making an amendment in this section that would suggest a time line for approvals?

Mr Wood: I have no further comment.

Mr Brown: Are you happy or not with making a—

The Vice-Chair: He has indicated that there was no further comment.

Mr Hodgson: What section, just for clarification?

The Vice-Chair: It's a long day. We are discussing section 8. Any further debate? If there's no further debate, we'll take the vote on section 8.

All those in favour of section 8?

Ayes

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: All those opposed?

Nays

Brown, Carr, Hodgson, Miclash, Morin.

The Vice-Chair: Carried.

Section 9: Any questions, comments?

Mr Hodgson: I just have one comment. "The minister may require the holder of a forest resource licence to prepare a forest management plan for a management unit." I mentioned earlier and I'd just like to restate it that I'm worried that you're going to ask the licence holder, who is a licence holder of only one element of the forest—which right now is timber, but it could be some other licence holder—to prepare the all-encompassing forest management plan which will address many other forest resources. My concern, besides the fact that the EA board recommended calling for only the timber to

be managed by the companies, is the point I mentioned earlier, that we're asking one licence holder to draw up the ecosystem plan for the whole forest unit.

There are different ways you can manage a forest. You can plan for a forest to encompass a moose habitat of 20 moose or you can plan for it to be a thousand moose. The MNR should retain some control over what the guidelines are going to be on this and set criteria that are measurable and that they can be held accountable for. I'm just wondering if this is what the minister is suggesting in this section, that the licence holder will prepare the whole forest management plan for the management unit.

Mr Wood: The word "may" leaves flexibility in there. In my mind, it's clear enough.

Mr Brown: I'm with Mr Hodgson's point, which is that by this section the ministry is totally turning over the management of the forest for all its elements to the private sector, to the timber company, and, having done that, has perhaps lost some control over the other elements in the forest. What you're saying here is that they're going to manage the entire forest even though they only have interest in timber management. We've got, as Mr Hodgson points out, wildlife issues, hiking, all kinds of issues other than the direct forest management. Are we saying, "You're going to manage for all these values and therefore you're going to pay for all the planning"? Is that what is being suggested?

Mr Wood: It says the minister "may." I can disagree with you completely in terms of a sawmill owner or whatever only being interested in trees. He's interested in the complete forest and the survival of that for a second harvest. He's interested in what the community's involved in. The word "may" leaves the discretion, and there's flexibility there.

Mr Brown: I agree: The minister under this section does not have to do this, but he's permitted to do this to give the administration over all elements of the forest to a business enterprise that is primarily interested in timber-cutting. When I say "interested," I don't mean he isn't concerned about the other elements of the forest, but his commercial interest is in timber.

Mr Wood: The comment I made during the hearings is that no matter which government is in power, the government is the landlord and the people using it are the tenants. There has to be a relationship between the two, and there are business relationships that are being negotiated as we speak.

1510

Mr Hodgson: The parliamentary assistant has said this before. In your opinion, the people of Ontario have nothing to fear that the forest companies "may" draw up the plan for the whole forest and how it's to be managed in relationship to other values in the forest. That used to be the sole jurisdiction of the Ministry of Natural Resources and the people held us accountable for how that was to be done. Now the minister "may" hand that over to the companies, but the government is not worried about that? Just a yes or no; I just want to be clear that that's what's being said.

Mr Wood: As the landlord, there is no fear. If you

take it as a landlord-to-tenant situation, there is no fear of losing that control, no.

The Vice-Chair: So have no fear.

Mr Hodgson: I haven't been around here a long time, but the NDP used to use analogies like a fox in the hen-house and things like that when it came to public ownership of resources. I won't belabour the point, but I remember hearing that in years gone by.

Mr Mammoliti: Do you want to be a little more specific?

The Vice-Chair: Gentlemen, I'm having a hard time connecting the foxes and the hen-houses and the fears to section 9 of the bill.

Mr Brown: I could maybe help. There are foxes in the forest, generally speaking, but generally not hen-houses.

I'm just wondering what the parliamentary assistant's view is. I have the terms and conditions of the timber management EA, and section 1 of that says:

"Timber management plans, amendments to timber management plans, and contingency plans shall"—that's shall—"be prepared for each forest management unit in Ontario in accordance with the timber management planning requirements described in these terms and conditions."

If I'm understanding what you're saying, in areas where the timber EA applies, you must—you don't have any choice: you shall—file a timber management plan, and then at the discretion of the minister, you may also be required to have a forest management plan. In areas outside of where the timber EA applies, you would not have to submit a timber management plan but you may be required to submit a forest management plan. Is that right?

Mr Wood: The language being used here is language that was used in 1952 when the Crown Timber Act was drafted and it's consistent with that. The words "shall" and "may" follow along those lines and are being incorporated into the Crown Forest Sustainability Act, Bill 171.

Mr Brown: Then your view is that the timber management plan is a necessity within the area that was covered by the class EA for timber management, and then it is discretionary that a forest resource plan be provided by the licence holder. Outside of that area that the class EA dealt with, you wouldn't need to have a timber management plan but you might be required to have a forest resource plan.

Mr Wood: The EA says that you "shall" have a plan—

Mr Brown: Only within the boundaries of the EA.

Mr Wood: —and here it says the minister "may" require the holder to come up with a plan. I don't see that there's any misunderstanding there at all.

Mr Brown: Okay.

The Vice-Chair: Are we ready to vote on section 9 of the bill?

Mr Brown: A recorded vote.

The Vice-Chair: Okay. All those in favour of section 9 of the bill?

Ayes

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: All those opposed?

Nays

Brown, Carr, Hodgson, Miclash, Morin.

The Vice-Chair: The motion carries.

Moving on to section 10, there is a Liberal amendment.

Mr Brown: I move that section 10 of the bill be amended by adding the following subsection:

"Same

"(1.1) An amendment to a forest resource management plan may be made only in accordance with term and condition 67 of schedule A to the decision of the Environmental Assessment Board released on April 20, 1994, in respect of the class environmental assessment by the Ministry of Natural Resources for timber management on crown lands in Ontario."

This in our view is just an amendment to make it clear that the timber term and condition 67 is observed throughout the entire province and that everything is consistent.

The Vice-Chair: Any debate?

Mr Wood: We're not supporting the amendment. It's already covered under the Environmental Assessment Act, it's covered under the Forest Management Planning Manual, and there's no need to have this in the act.

Mr Brown: But it doesn't cover every crown forest. The terms and conditions of the EA only apply to the land mass that was subject to the EA. It doesn't apply across the province, although, to be fair, it applies to most of the province, but not all.

The Vice-Chair: Any further debate on the Liberal amendment? If not, all those in favour of the Liberal amendment to section 10?

Mr Brown: Recorded vote.

The Vice-Chair: Recorded vote.

Ayes

Brown, Carr, Hodgson, Miclash, Morin.

The Vice-Chair: All those opposed?

Nays

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: The motion is lost.

Any further debate to section 10? We're ready to vote? All those in favour of section 10?

Mr Brown: Recorded vote.

The Vice-Chair: Recorded vote.

Ayes

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: All those opposed?

Nays

Brown, Carr, Hodgson, Miclash, Morin.

The Vice-Chair: Section 10 carries.

Section 11: Any questions, comments? Ready to vote?

Mr Brown: Mr Chair, may we just have an opportunity to read the section, just 30 seconds?

The Vice-Chair: I had assumed this was done in the recess, but we can always be generous.

Okay. All those in favour of section 11? All those opposed? Carried. I like this.

1520

Section 12: There is a government amendment.

Mr Wood: I move that section 12 of the bill be amended by striking out "may" in the first line and substituting "shall."

This was supported by the OFIA, IWA, the Thunders Woodlands Association. The intent of section 12 is to provide for local citizens committees where appropriate. This will require that the local advisory committees are part of the development of every forest management plan.

Mr Hodgson: We're agreeable to this. The PCs have a similar motion on the table.

The Vice-Chair: Any further debate? All those in favour of the government amendment? Anyone opposed?

Mr Bisson: I want a recorded vote.

The Vice-Chair: You want a recorded vote. Normally we say that before.

All those in favour of the government amendment?

Ayes

Bisson, Carr, Dadamo, Hodgson, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: All those opposed?

Nays

Brown, Miclash, Morin.

The Vice-Chair: The motion is carried. As was indicated, the Conservative motion was exactly the same; therefore we don't vote on it.

There's a further amendment to section 12.

Mr Frank Miclash (Kenora): I move that section 12 of the bill be struck out and the following substituted:

"Committees

"12. The minister shall establish a structure of committees in accordance with term and condition 4 of schedule A to the decision of the Environmental Assessment Board released on April 20, 1994, in respect of the class environmental assessment by the Ministry of Natural Resources for timber management on crown lands in Ontario."

We heard from a good number of presenters that there should actually be some sort of guidance in terms of the makeup of the committee, and if we go back to term and condition 4 of schedule A of the Environmental Assessment Board, I think most would agree with that in terms of the actual makeup of that particular committee.

Mr Carr: The government talked about the OFIA supporting the last amendment that they proposed and passed, and this is another one. If you look at page 6 of their recommendations, they say, "This act should establish the trilevel committee structure directed by EA board term and condition 4." This was the same rationale given by the government for the last amendment, sup-

ported by one of these groups, so obviously I would assume that the government will be supporting this recommendation as well. It is consistent with what we've said on a lot of the amendments, that is, to be consistent with the EA board decision, so I hope the government will support this amendment as well.

Mr Brown: It's interesting to note—as all members have before them the terms and conditions of the timber EA, I'm sure—that this spells out the minimum that these citizens' committees must do, and which citizens' committees must be established at what level; it includes the local level, a regional level and a provincial level. The government, by its own admission, can do nothing less than this. They must fulfil all the terms of the class EA. Our concern again is that the class EA did not cover all the land mass we're talking about, and it should be spelled out in the legislation that this is what the government is required to do.

Mr Wood: I disagree that it has to be spelled out. We've agreed to the terms of the EA and there was no decision made to appeal them. We'd be just duplicating in legislation what is already covered under the EA, so we won't be supporting that amendment.

Mr Brown: I'm again confused. It seems to me that we are establishing two standards, depending on where you happen to be in the province of Ontario, in terms of the involvement of advisory committees and how they are to be made up, which is spelled out in the timber EA term and condition 4.

Mr Wood: If we follow through, we have a government motion amendment to add new sections 12.1 and 12.2. That's going to address some of the concerns that have been raised here and it'll deal with this better than supporting this particular amendment brought forward by the Liberal caucus.

The Vice-Chair: Ready to vote?

Mr Brown: Recorded.

The Vice-Chair: A recorded vote. All those in favour of the Liberal amendment to section 12?

Ayes

Brown, Carr, Hodgson, Miclash, Morin.

The Vice-Chair: All those against?

Nays

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: The amendment is lost.

Any further discussion on section 12?

Shall section 12 carry? All those in favour? Opposed? Carried.

Section 12 is carried, as amended.

Mr Hodgson: On a point of order, Mr Chair: These additions under section 12, sections 12.1 and 12.2, will be part of the original 12, will they not? They will not go together?

The Vice-Chair: They're new sections.

Mr Hodgson: But they're related, are they not?

The Vice-Chair: The whole bill is related to each other.

Mr Wood: They're half-brothers.

Mr Hodgson: If we're voting on 12, do we have to vote again on section 12, as amended?

The Vice-Chair: No, these are new sections.

Mr Hodgson: Okay. Thank you for your indulgence, Mr Chair. I know time is of the essence.

Mr Wood: I move that the bill be amended by adding the following sections:

"Other advisory committees

"12.1 The minister may establish other advisory committees to advise the minister on matters under this act, including the preparation of forest management plans and the manuals required by section 66.

"Forest management boards

"12.2(1) The minister may establish forest management boards for such areas as are designated by the minister, including forest management boards for community forests designated by the minister.

"Functions

"(2) A forest management board shall,

"(a) advise the minister on matters relating to the management of crown forests;

"(b) prepare forest management plans on the request of the minister;

"(c) exercise any authority of the minister under this part that is delegated to the board by the regulations; and

"(d) perform such additional functions as are prescribed by the regulations."

The Vice-Chair: Any comments?

Mr Hodgson: If the parliamentary assistant wants to speak in favour of it, that's fine with me, but I just have one quick comment, that is, that there's no serious objection from our party on this, except that I can't understand why you wouldn't specify the provincial and regional, as is specified in the EA hearings. "Other" is open. I assume that's the direction the ministry's going in, but do you have any comments on why you didn't want to specify provincial and regional?

Mr Wood: Thank you for your comment. These are new sections that have been brought forward and they're to reflect the legal commitment of the timber management EA terms and conditions. It's a strong argument that MNR will be making wider use of advisory committees in the future, and this will clarify the authority of the minister to establish these advisory committees.

The revised section provides support for the development of the provincial technical committee that has been mandated under the EA and links the advisory role to the development of manuals under this act. Moving the clause on forest management boards increases its prominence within the act. I hope this explains what the intention of these two additional sections are.

1530

Mr Hodgson: I have no complaint with your answer, but my question was about section 12.1, where it says, "The minister may establish other advisory committees." My recollection of the timber EA was that there was to be a provincial and a regional advisory committee, along with the citizens' committees, or at least a provincial one.

"Other" will cover it. I just wondered why they didn't specify it to be a provincial and regional. Was there any discussion that you were involved in? The "other" covers it; that's why I'm not objecting to this. I'm just wondering why they didn't do it, if there was a reason.

Mr Wood: It allows us to do what we're mentioning here, as well as other committees as might be required to advise the minister out there. We're committed to what the EA says, and then there might be a reason for other ones to be set up.

Mr Hodgson: You might want to do more.

Mr Brown: I just want some advice on how this system is to work. In the area of the undertaking of the timber management EA, we have a local citizens' committee to manage for timber, we have a regional committee to manage for timber, and then we have a provincial technical committee to manage for timber. Does this mean we "may" have, at the discretion of the minister, a new set of committees, only they're going to manage for the forest?

Mr Wood: The roles and responsibilities even of choosing the committee members are all laid out in the EA decision, and we've accepted that. Sure, you're saying that was referring to timber; that was why the EA was set up. Here we're dealing with sustainable forestry. We've gone one step beyond what the environmental board has recommended we do, that we'll start managing for forests and not just managing for timber.

Mr Brown: So in the area of the undertaking it would be quite reasonable and possible to have a citizens' committee for forest management, and that would include the timber and that would therefore satisfy the environmental assessment. At the regional level, we would have a committee that just deals with timber, because your motion doesn't talk about that. And then at the provincial level, we again would have a committee that would deal with timber. Is that right?

Mr Wood: All of these have specific responsibilities. They're going to be expected to carry out specific responsibilities as committee members.

Mr Brown: I understand, but it would appear at least similar, on the surface anyway, if what you want to talk about is forest management committees and the citizens' committees for forest management. By law you are required to have three levels of committees for timber—you can't get away from that, at least in the area of the undertaking—but for forest management, you don't have the same situation at all.

It would seem to me that if you were trying to make this work, you would permit the same thing so that you would have forest management committees at the regional level and forest management committees at the provincial level, instead of having timber management committees at two levels and forest management at another.

Mr Wood: The reason for this amendment is that the advice we had is that the bill does not provide for other advisory committees to assist with plans and manuals. As a result, we've brought forward this amendment to say that, yes, we need something in the legislation. We've brought forward these two sections, which we feel are

going to cover where there was a shortfall in the bill. We needed those to make sure it was addressed properly.

Mr Brown: What you're suggesting, then, is that this gives the minister the opportunity to establish the very same committees I just mentioned. There could therefore be committees at the local, regional and provincial levels.

Mr Wood: And other advisory committees as well.

Mr Brown: So the minister can have a whole lot of advisory committees.

The Vice-Chair: Are we ready to vote? Is there further debate?

All those in favour of sections 12.1 and 12.2? Opposed? Carried.

Mr Wood: Unanimous. Holy mackerel.

The Vice-Chair: We're now moving on to section 13. There is a government amendment in front of us.

Mr Wood: I move that subsection 13(1) of the bill be amended by striking out the portion before clause (a) and substituting the following:

"(1) Every forest operations prescription shall be prepared in accordance with the Forest Management Planning Manual and shall include descriptions of,"

The Vice-Chair: Any debate? Are you speaking to it, Mr Wood?

Mr Hodgson: I've got a comment if the parliamentary assistant doesn't want to speak in favour of this amendment.

Mr Wood: I'm going to speak.

The Vice-Chair: He's thinking. We'll give Mr Hodgson a chance to explain it.

Mr Hodgson: I don't know if the government would want me to explain it. Are we moving towards a cookbook approach to forestry on this? That's my only concern here, that the professional judgement of a professional forester might be limited by this. If the government can assure me that this isn't going against the wishes of the minister and having a cookbook formula for forestry, our concerns can be alleviated. It's similar to what the MOEE wanted before the EA hearings. That's my only concern here, that we're on the slippery slope towards a cookbook approach. But if the parliamentary assistant can assure the people of Ontario that that's not—

Mr Wood: Depending on whether you call it a cookbook approach or proper planning for forestry for the future. "Every forest operations prescription shall be prepared in accordance with the Forest Management Planning Manual."

The Vice-Chair: I take it that Mr Hodgson didn't give the explanation you were looking for.

Mr Wood: The wording change is to remove any ambiguity about what the intent is. It's spelled out more clearly, and this is the reason for this clarification in the language.

Mr Brown: A concern was expressed to me by some groups when we talked about these prescriptions—but maybe this isn't the right point to speak about it—that at times the prescription, that may have been prepared with the best of intentions and the best knowledge at the time,

when you get out on the ground and get doing the work, doesn't fit, and in the judgement of professional foresters there is a better way to do it. I'm just wondering what opportunities there are for some flexibility and latitude provided in these prescriptions.

1540

Mr Wood: The intention is to take a look at the forest before it's cut and come up with some kind of plan about how it's going to look 90 years down the road as you prepare for further harvest, being able to predict how that's going to end up looking, taking into consideration that, sure, there's fire, disease, winds and whatever that could upset those plans. But other than that, you should be able to come up with a prescription for what it's going to look like, what it is out there that's on the ground now and what it should look like in the future. It's going to be required, and there'll be no harvesting taking place without that prescription.

Mr Carr: The Ontario Forest Industries Association had some concerns about this. If you look at their brief, they had some concerns regarding some of the requirements for recordkeeping. I take it this amendment will alleviate some of their fears. Was it put in as a result of that?

Mr Wood: Yes.

Mr Carr: So they're pleased and happy with this part, I guess, because the concern they had originally was that it would generate significant requirements for recordkeeping that they say will divert resources from forest management activity. If they're happy with this—

Mr Wood: Just to go one step further, there is room for a forester to amend the prescription, if required.

The Vice-Chair: Any further debate? Ready to vote?

All those in favour of the government amendment to section 13? Opposed? Carried.

There's a further amendment to section 13.

Mr Brown: I will withdraw that amendment. I think that's been covered; I think we agreed.

However, we have two other subsections in that section, and I'd just ask Mr Wood about subsection 13(3). Perhaps my earlier question was better addressed to subsection (3), that is, how can you change the elements of a forest prescription or operations prescription? What are we talking about here where it says, "...Forest Management Planning Manual by a person specified by the minister"? What do we mean in terms of who is certified to do this?

Mr Wood: There might be some question about what can grow back. We have to be able to say we can get a bioecologist, other areas of expertise out there. There could be a concern that with the prescription being applied to that particular area, nothing will happen on that particular piece of land afterwards. You've got to give the minister the discretion to be able to call on some expertise to get some advice in the development—

Mr Brown: So this is a permissive section to permit someone with particular expertise to certify a particular part of a plan that is not within the forester's area of expertise to look at?

Mr Wood: I believe you're right.

The Vice-Chair: Are you ready to vote on section 13, as amended? All those in favour? Opposed? Carried.

There is an amendment to section 14.

Mr Brown: I move that subsection 14(1) of the bill be amended by striking out "a work schedule" and substituting "an annual work schedule."

It just defines that in terms of I believe the environmental assessment and others, the work schedule needs to be an annual event rather than a work schedule which could be for a period of whatever number of years. We're just trying to say there should be a schedule every year.

Mr Wood: We can't accept the amendment. The term of the work schedule will be covered in the Forest Management Planning Manual. The term of the work schedule may vary over time, and it's not necessary to cover that in the legislation.

Mr Brown: Why would you want a longer work schedule than one year?

Mr Wood: We're saying it possibly could vary. If you're limiting to one year, it's not acceptable.

The Vice-Chair: Are you ready to vote?

Mr Brown: I'm going to lose again.

The Vice-Chair: All those in favour of the Liberal amendment to subsection 14(1)?

Mr Brown: Recorded vote.

The Vice-Chair: Recorded vote.

Ayes

Brown, Carr, Hodgson, Morin.

The Vice-Chair: All those opposed?

Nays

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: The amendment is lost.

Mr Brown, you have a further amendment.

Mr Brown: I move that subsection 14(2) of the bill be struck out.

The Vice-Chair: Any comments? Are we ready to vote?

All those in favour? All those opposed? The vote is lost.

Another Liberal amendment to subsection (3).

Mr Brown: I move that subsection 14(3) of the bill be struck out and the following substituted:

"Minister's powers

"(3) The minister may approve the work schedule, reject it or, if necessary to provide for the sustainability of the forest operations in the management unit, approve the work schedule with such modifications as may be made by the minister."

We just want to do this as, again we stress, we would like to see some goals and specifications to be used as a benchmark to define sustainability. Although we seem to have lost that argument on a number of occasions, we again want that placed in the bill so we understand what criteria the minister will be using to approve or not approve or modify the work schedule.

1550

The Vice-Chair: Any further discussion? All those in favour of Mr Brown's motion regarding subsection 14(3)? All those in favour? All those opposed? Lost.

Mr Brown: We're not doing very well.

The Vice-Chair: Mr Brown, you have another amendment to subsection 14(3.1).

Mr Brown: I move that section 14 of the bill be amended by adding the following subsection:

"(3.1) The minister shall not approve the work schedule unless a local citizens' committee has reviewed the work schedule and has been given an opportunity to comment on it."

I think the reason for that amendment is apparent. If we have these local citizens' committee, we would like them to have a look at the work schedule and be able to consult in the community about the work schedule. Many of us who represent northern constituencies know you can be surprised at the reaction of some folks out there to a work schedule, and it would be better to make sure it's vetted in advance with the community groups.

Mr Wood: The amendment is not acceptable. We feel the Liberal motion is not necessary because it's covered under the EA term and condition 72, which includes the opportunity to inspect work schedules, and the Forest Management Planning Manual describes the process for review of work schedules. We don't feel this motion is necessary, so we will try to defeat it.

Mr Brown: All we're attempting to do here is ensure that the citizens' committees have input into the work schedules, to make sure that happens. It doesn't seem to me that it causes any difficulty at all to put it in the legislation and I think it makes it quite a bit clearer that they will have that involvement.

The Vice-Chair: Further debate? Ready to vote?

All those in favour of Mr Brown's amendment to subsection 14(3.1)? All those in favour? All those opposed? Lost.

I see a Conservative amendment.

Mr Hodgson: I move that section 14 of the bill be amended by adding the following subsection:

"Amendments to work schedules

"(3.1) The minister may at any time amend a work schedule that the minister has previously approved."

The Vice-Chair: Did you say "amend" or "modify"?

Mr Hodgson: I can say "modify," but it's not consistent with section 10 of the bill. I've got written in "modify."

The Vice-Chair: It depends what you want to say.

Mr Hodgson: I'd like to say "amend" and make it consistent, but I would be willing to have a five-minute break and let independent counsel review the language of this section.

The Vice-Chair: Whatever you read into the record would be the amendment.

Mr Hodgson: "Amend" is consistent with section 10.

The Vice-Chair: So you want to say "amend."

Mr Hodgson: That's correct, but I would like to have

a five-minute break before any discussion on this to let the independent counsel review it.

The Vice-Chair: Would you read it into the record, please, and then ask for the five-minute recess.

Mr Hodgson: "The minister may at any time amend a work schedule that the minister previously approved."

The Vice-Chair: And you're now asking for a five-minute recess?

Mr Hodgson: Yes.

The Vice-Chair: The committee stands adjourned for five minutes. We'll return at 4 o'clock.

The committee recessed from 1556 to 1607.

The Vice-Chair: This committee is in session again. I understand, Mr Hodgson, that you want to withdraw the amendment you read into the record and read another into the record. Is that correct?

Mr Hodgson: Yes. I appreciate the break, Mr Chairman.

The Vice-Chair: Sometimes it helps to clarify the mind.

Mr Hodgson: Exactly. I move that section 14 of the bill—

The Vice-Chair: So you're withdrawing the one you read into the record?

Mr Hodgson: Yes, and I'd like to submit another motion, if that's permissible.

I move that section 14 of the bill be amended by adding the following subsection:

"Amendments to work schedules

"(3.1) The minister may at any time revise a work schedule that the minister previously approved."

I think it's vitally necessary to this bill. It's a friendly amendment and, like all my other friendly amendments, I would expect the government would have no opposition to this, but we'll see.

The Vice-Chair: Any other comments or debate? All those in favour of Mr Hodgson's amendment? Opposed? Carried.

Mr Hodgson, I think you have another one.

Mr Hodgson: Yes, I do, Mr Chair, at the risk of starting a rumour that there's some kind of accord between the two parties.

I move that subsection 14(4) of the bill be struck out and the following substituted:

"(4) A work schedule and any modification or revision to a work schedule under subsection (3) or (3.1) shall be consistent with the applicable forest management plan."

If I can speak in favour of this motion, again it's a friendly motion and I feel it's necessary and, like all my other motions, I feel it should be incorporated into the act.

The Vice-Chair: Any debate? If not, all those in favour of Mr Hodgson's amendment? Opposed? Carried.

Shall section 14, as amended—

Mr Hodgson: I have a further amendment, if that's permissible by the Chair.

I move that subsection 14(5) of the bill be amended by

inserting "or revision" after "approval" in the second line.

Again it makes it consistent, and I will submit this to the clerk.

Mr Brown: Run that by us again, Chris?

Mr Hodgson: I'm making subsection 14(5) consistent with the previous amendments by inserting the word "revised." The clerk has it and he'll circulate it, I suppose.

The Vice-Chair: The motion reads as follows:

"I move that subsection 14(5) of the bill be amended by inserting 'or revision' after 'approval' in the second line."

Any further debate? All those in favour? Opposed? Carried.

Any further comments on section 14?

Shall section 14, as amended, carry? All those in favour? Opposed? Carried.

Moving on to section 15, Mr Brown, you have an amendment.

Mr Brown: Actually, we should deal with section 15, shouldn't we?

Clerk of the Committee (Mr Franco Carrozza): Deal with 15 first, because this is a new section.

The Vice-Chair: I'm sorry. It's a new section. We will have to deal with section 15.

Any comments on section 15 itself? No comments.

Shall section 15 carry? All those in favour? Opposed? Carried.

Okay, Mr Brown.

Mr Brown: I move that the bill be amended by adding the following section:

"Use of forests for industrial wood fibre

"15.1 All productive forest in a management unit shall be managed for the long-term production of industrial wood fibre in accordance with an approved forest management plan."

This amendment is put forward because there is nowhere in this bill that we can find that deals with productive forests and the need to manage for the long-term production of industrial wood fibre in that management plan. We think this would be a helpful amendment in that we make it clear that there is an obligation to manage for the long-term production of wood fibre in the plan. I think it's fairly straightforward.

This bill, as you know, does not have any sustainable yield provisions. It's been criticized by many groups for lacking that. We think this would be a helpful amendment, and I suspect all members of the committee would want to support it.

Mr Wood: We will not be accepting the amendment. What you're doing is adding a section that deals with wood fibre and our feeling is that the motion is inconsistent with the purpose of the act, the objectives and the role. It would preclude other uses of the productive forest land base and we don't feel we can accept the amendment as spelled out in section 15.1.

Mr Brown: I would suggest to Mr Wood, though,

that if this is done with an approved forest management plan, it would take those other values into consideration. All we're suggesting is that we maximize long-term production of wood within that forest management plan. The forest management plan I would understand to take into account the other values.

Mr Wood: Our feeling is that we don't have to be specific in that particular section, and that's the reason it's not acceptable.

Mr Carr: We had a motion that was very similar to that and some of our reasons are similar to Mr Brown's, so obviously we will be supporting this motion.

The Vice-Chair: Any further debate? All those in favour of Mr Brown's motion to add a new section, section 15.1?

Mr Brown: Recorded vote.

The Vice-Chair: A recorded vote. All those in favour?

Ayes

Brown, Carr, Hodgson, Miclash, Morin.

The Vice-Chair: All those opposed?

Nays

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: The motion is defeated.

The Conservative motion being very similar, certainly in intent, we will move on to section 16.

Is there any debate on section 16? All those in favour of section 16? Opposed? Carried.

Section 17: Mr Hodgson, you have an amendment.

Mr Hodgson: I move that subsection 17(1) of bill be amended by inserting after "studies" in the third line "on the timber resource."

I'd like to just clarify and read it as it would read in full: "The Minister may require the holder of a forest resource licence to conduct inventories, surveys, tests or studies on the timber resource in accordance with the Forest Information Manual."

The reason is that we're talking about the holder of the forest resource licence, and I think it's unfair to place the burden on them to do studies in fields in which they may not have their primary interest. But the crown definitely has an interest in these and has the expertise. For other areas that hold a licence, like a third-party licensee—they wouldn't be called a third-party licensee if it was some other use, but it's consistent with the multiple-use theory of the forest that we shouldn't ask the forest industry, which just is the licence holder, to do the studies for other resources. I think the people of Ontario would want to have a check on that, to have either the ministry do it or somebody else. It just clarifies that the studies they're referring to for the licence holder are in relation to "on the timber resource," similar to the inventories, the surveys and the tests.

Mr Wood: The intent of this section is to provide authority to require licensees to conduct inventories, surveys, tests and studies in accordance with the Forest Information Manual. This amendment, in our opinion, severely limits the contribution licensees can make to

information collection, and that's not what we want to do, so we will not be supporting this amendment.

Mr Brown: We certainly share the concern raised by Mr Hodgson. We have an amendment that is very similar, which, as you would note, just changes a few words. It says "relevant to the forest resources under licence." Debating Mr Hodgson's, perhaps it is a little too narrow in its implications.

What we're seeing here, in the name of forest sustainability, is a shift of about \$100 million from the people of northern Ontario and from the companies operating in northern Ontario to the Treasurer or the Finance minister of Ontario through the funds of the province of Ontario. At the same time, we're not only asking the companies to pay for all the silviculture work, we're then asking them to pay for all the costs of the studies in their management units or FMAs.

It seems to me, as the government has just pocketed \$100 million of the people of northern Ontario's money, more or less, that it might behoove this wise government to suggest that it still have at least some small responsibility for the forests of northern Ontario, the forests that support a lifestyle that is second to none.

Therefore, I'm in concurrence with Mr Hodgson's view that we should narrow that in, but I think our definition probably fits this particular bill a little better than Mr Hodgson's. Nevertheless, we will be supporting it.

I find it really quite strange that the government would choose to ask the private sector to pay for studies without any kind of criteria about what those studies might be. I think people who are primarily interested in the harvest of the forest would find paying for studies that do not directly relate to that resource very, very difficult to rationalize, and I would wonder why the government would expect them to.

Mr Wood: I repeat the comment that we don't want to severely limit the contribution the licensees might want to make to information collection. In today's modern days, we also can't afford the luxury of duplication.

Mr Brown: But you've just pocketed about \$100 million. I could be off a million or two, but it's about \$100 million—and that's per year, by the way. You're asking the licence holders to pay, it could be for anything, and that is just not reasonable for a government to do.

The ministry still has responsibility, and the people of Ontario would still expect that it is responsible for the crown forests. As you say, they are the landlord, and if they want some information that doesn't directly relate to the forest resources, maybe the people of Ontario, from that \$100-million windfall, might want to pay a little bit of that. That's what Mr Hodgson's amendment does. I prefer ours, but we will be supporting—probably in a losing cause—Mr Hodgson's, as I hope he supports ours a little later on.

1620

The Vice-Chair: Any further debate? If not, all those in favour of Mr Hodgson's motion?

Mr Hodgson: Recorded.

The Vice-Chair: A recorded vote.

Ayes

Brown, Carr, Hodgson, Miclash, Morin.

Nays

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: The amendment is lost.

Mr Wood, you have a further amendment to section 17.

Mr Wood: I move that subsection 17 (1) of the bill be amended by adding at the end "for the purpose of forest management planning or ensuring compliance with this act and the regulations."

The reason for this amendment is that the requirement to provide information is seen as an unknown and possibly significant and open-ended cost burden on forest companies. Forest companies do not have the skills or resources to provide information beyond timber, in some cases, and this was a key concern of the OFIA and its member companies. "For the purpose of forest management planning or ensuring compliance with this act and the regulations" is already implied.

This will make the limitations clearer. It provides for some limits on what licensees may be required to provide, and the proprietary use of information is guided and controlled by the Freedom of Information and Protection of Privacy Act.

MNR is committed to developing information on the forest for values other than timber in a cooperative and cost-effective way, and this is in line with what we had said before. With today's standards, we can no longer afford duplication and it's a matter of operating in a cooperative and cost-effective way.

Mr Carr: The concern was voiced, as the parliamentary assistant said, by some of the forest industry association, that the information needed to be relevant to the management of timber resources under licence. Like many businesses, they were concerned that a lot of the information generated doesn't get used, and their concern was that the information required for other users is the government's responsibility.

My question is to the parliamentary assistant. I know they wanted it changed. As written here in your motion, they approve of your amendment?

Mr Wood: There's been consultation taking place.

Mr Carr: I don't think there's been a complete dialogue. I hate to be so negative. I take that they still have some concerns. This goes back to the other one when I asked the question about whether they liked the amendment, and the answer was that they liked the fact that we have a definition, but they might not like this one. They still are concerned that this is still too open-ended, though? This is fairly broad, even with this amendment.

Mr Wood: It closes the door a lot from what it was before, though.

Mr Carr: It closes the door, but it still allows a lot to get through. I get the drift. It doesn't completely alleviate the fears, but I guess it's better than it was.

The Vice-Chair: Usually when the door's open there's a drift.

Mr Wood: It causes a better relationship between the landlord and the tenant.

Mr Carr: Based on that, I guess there are still some concerns out there. This is one of the situations where you would like to be able to say to some of the groups: "After you just heard that answer, how would you like me to vote on this? It maybe makes it better, but we have to vote either yes or no." But I appreciate the clarification, such as it was.

Mr Brown: Mr Chair, procedurally, we have an amendment to this section also, 17(1), and I'm wondering whether we are considering these amendments in the proper order.

The Vice-Chair: They're being considered in the order in which they were received.

Mr Brown: Generally, isn't the government amendment considered—

The Vice-Chair: Usually first, yes, but I'm sure the opportunity will arise to consider your amendment as well.

Mr Brown: It puts us in somewhat a difficult position. As Mr Carr pointed out, this may be some small improvement, but in our view it is not sufficient to move us to where we need to be. After all, we know the regulations can be altered at a minister's whim—well, "whim" is too—it's discretionary. The minister can change regulations with relative ease compared to legislation.

It seems to me that it is still very broad, and we could be dealing with questions that don't, at least in the opinion of the tenant, appear to be necessary for the proper forest management, but the government may think so. Unlike most tenants, you don't have rent control and you don't have the Landlord and Tenant Act and you don't have legal aid to help you fight those battles.

The discretion here is quite broad, and that's why I asked the question of the Chair. I prefer this amendment over no amendment, but I think our amendment would satisfy both the government and the interested parties out there to a far higher degree.

Mr Carr: It would close the door even more.

Mr Brown: It would still be open a slight bit, but ours says, "relevant to the forest resources under licence." If the minister can show that it's relevant, the company or individual will have to do the study. Yours still leaves it almost totally at the minister's discretion. I'm not so sure that as a private company I want to operate under the total discretion of any politician, for that matter.

Mr Wood: There was a concern by the OFIA and member companies during the three weeks of public hearings. We listened to them with both ears and we're responding and trying to address the concerns in the legislation, and I believe we've accomplished that with this amendment.

Mr Brown: I hate to speak for the various interest groups, but I would think they'd like this better than nothing, but that's about all you could say for it. I would just hope that when we have the opportunity to place our amendment, the government can see fit to adopt it.

The Vice-Chair: Are we ready to vote?

All those in favour of the government amendment to section 17? Opposed? Carried.

A Liberal amendment to the same subsection.

1630

Mr Brown: I move that subsection 17(1) of the bill be amended by inserting "relevant to the forest resources under licence" after "studies" in the third line.

We've now seen three parties attempt to fix this. In our view, by saying "relevant" we are suggesting that the company be responsible for something that is relevant to the resources under licence. At some time in the future, as the government insists that forest resources are not just timber, it could be that there'd be some other commercial enterprise in the forest that might be managing for something else, and they would be under licence also. They may be required to manage for their blueberries or whatever.

Mr Wood: Blueberries?

Mr Brown: Sure. I'm just suggesting to you that this narrows the definition considerably. It does not hurt the government's case. If the study is relevant to what's under licence, it should be done. It takes away some of the ministerial discretion to have individuals and/or companies do work that is properly in the domain of the provincial government and the people of Ontario.

Mr Wood: I think we've dealt with this adequately in our government motion, and we don't see the need to support this amendment.

Mr Hodgson: I have to disagree with my esteemed colleague Mr Brown about whose amendment was better. I believe our amendment spoke specifically to the concerns of the people who will have to pay for this to be drawn up. The "forest resource" Mr Brown is referring to in this amendment was not changed under the definitions section, 2(1); it still encompasses everything in the forest ecosystem. That was my whole point, that—

Mr Brown: It says "under licence," though.

The Vice-Chair: Mr Hodgson has the floor.

Mr Hodgson: "Under licence" is a good clarification, but still, "forest resources" is in terms of the whole forest ecosystem.

The government mentions, if I can paraphrase what the parliamentary assistant said, that this is part of doing things cooperatively, more efficiently and better. Is this an indication of the new business relationship, how the consultation's going to work with agreements? You've met with them and you've consulted? You didn't mention whether they're happy with the government's definition.

Mr Wood: Negotiations are actively being pursued at this time. The phones in some cases are ringing off the hook saying that there are some new business relationships that have been signed, and we would like to get to the table and talk about the new relationships.

Mr Hodgson: So I would assume this is part of the negotiation process, the cost of these studies that you've talked about.

Mr Wood: Yes.

Mr Hodgson: Mr Brown's motion does merit support

in that it is more specific to what's at question.

Mr Carr: The big concern, having spent some time dealing with businesses throughout this province in my critic responsibility, is the fear that the government uses not even information that's relevant to a particular industry, but a concern that they feel there's too much information the government wants to gather from them. We've all heard from businesses, small businesses particularly, about the amount of government paperwork. I don't think they'd mind if they thought the information was being used. They don't, number one, think it's being used, even if it's relevant to their particular industry.

In the case of the forest industry, what they're concerned about is that the government is going to ask them to do something that should be the responsibility of the people of the province, that they will be required, at tremendous cost, to keep information that the government should be doing. We heard some of the small companies saying that the costs involved in keeping records under section 16 could put some of them out of business.

What this does, similar to the other amendment, is to just clarify it a little bit. They don't mind putting together the information if it's relevant, but they do mind the fact that it's going to be information that the government should be doing. They are concerned, notwithstanding the assurances from the parliamentary assistant and the negotiations and the phones ringing off the hook. To alleviate some of those fears, in the light of the fact that our motion didn't pass, we support the Liberal motion.

Mr Hodgson: I'd like to make one clarification, if I may. Upon further study of "the forest resources under licence," Mr Brown's resolution is similar to what we proposed earlier and it is specific to what's under licence. I will be supporting this motion and would suggest that we get on with the vote.

Mr Brown: I'm going to do a little more lobbying first. As I look at this, the question that has been raised is how the independents will deal with this, the small DCLers, as we refer to them, and people with rather limited resources on crown units. The government has said: "Don't worry about those people. If they do not have the resources to do a forest management plan, if they cannot do that physically themselves, not to worry—the crown will do it."

We've been concerned that perhaps the crown would do it at the expense of taking some of the forest renewal fund for the planning, some of the stumpage fees they had paid, and in doing that actually reduce the amount of money available for silviculture in the area. We know from the ministry's own estimates that the forest silviculture budget that is going to be guaranteed under this bill is far less than it was just five years ago, so we are concerned that what we might get is the old "less for more" routine again.

I wonder if the parliamentary assistant could help us and indicate what obligation would be on the DCLer, what obligation would be on someone on a crown unit who is too small to viably do this himself or herself?

Mr Wood: As a ministry, we're committed to trying to develop information, gather the information in a

cooperative, cost-effective way, and I think these discussions are going to have to take to place about how that can be done.

Mr Brown: But if you look at the numbers the ministry provided us with Monday afternoon regarding silviculture, if you look at the numbers the ministry has given us regarding the increase in stumpage in the area of charges and the new residual value tax, about \$100 million has just kind of disappeared out of northern Ontario into the Treasurer's pockets here at Queen's Park.

We're wondering, do we have three classes of licensees? If you're one class of licensee the government pays for all these studies and does your plan for you; then, the next level up, the government pays for some of it and the person on that unit or a company on that unit pays for a portion; and if you're a different size then you get to pay even for the government's work, not just for what's relevant to your plan.

That's our concern as we go through this. Where's the fairness and the so-called partnership, which has been an overworked word lately?

Mr Wood: When we're dealing with this particular section, talking about inventories, surveys, tests and studies, we're saying "the minister may require." We're not using the word "shall," as we've used in other sections; we're using the word "may." We're saying that we're hoping we are going to be able to do this in a cooperative, cost-effective way, realizing that things are different now from what they were four years ago when we took over government. The cookie jar was supposed to be full, but it was empty, and we've had to deal with this over the last four years.

1640

Mr Mammoliti: It didn't have a bottom.

Mr Wood: Somebody had their hand in the cookie jar.

Interjections.

The Vice-Chair: I'm not sure this conversation will speed things up.

Mr Brown: Maybe I will ignore some of the those rather political, but incorrect, statements.

The Vice-Chair: I think it probably would be helpful.

Mr Brown: The very discussion that the parliamentary assistant talks about here causes us some grief because we may have, and it looks very much like what the ministry's intended, is a very uneven hand across northern Ontario and crown lands in general in that some people will receive some money for studies, other people will receive no money for studies, and some people will be required to do studies they can't even understand why they have to pay for or why they're necessary, with total discretion by the Minister of Natural Resources.

My amendment is rather simple. It just says we should have these "relevant to the forest resources under licence." If the parliamentary assistant could give us a reason he would want a forest company to go beyond that, I would be interested.

The Vice-Chair: Any further debate? Ready to vote?

All those favour of Mr Brown's motion to amend subsection 17(1)?

Mr Brown: Recorded vote.

The Vice-Chair: Recorded vote.

Ayes

Brown, Carr, Hodgson, Miclash, Morin.

The Vice-Chair: All those opposed?

Nays

Bisson, Dadamo, Jamison, Mammoliti, Waters, Wood.

The Vice-Chair: It's defeated. Any further discussion on section 17?

All those in favour of section 17, as amended? Opposed? It's carried.

Section 18 has a government motion.

Mr Wood: I move that subsection 18(1) of the bill be amended by adding at the end "for the purpose of forest management planning or ensuring compliance with this act and the regulations."

The intent of this section is that it allows the minister to require a licensee to provide information as per the manuals. "For the purpose of forest management planning or ensuring compliance with this act and the regulations" is already implied, but this'll make the limitations clearer. MNR is committed to developing information on the forests for values other than timber in the most cost-effective way. Certification of sustainable forest management practices will be dependent on a consistent province-wide standard.

If any other explanation is required, I'm sure we could get into them before we vote on this particular section.

Mr Carr: The Ontario Forest Industry Association said there needs to be clear rules on the type of information which will be provided, compensation for collecting and providing it, and for its ownership. They made some recommendations. I again wanted to ask the parliamentary assistant whether they have supported the government motion as written, or are we going to get into this door thing again? Does the Ontario Forest Industries Association now approve the bill as you have written it?

Mr Wood: The amendments that are being brought forward, as I said earlier, are not just being pulled out of the air. There's a dialogue going on and it's still going on. We have a number of people working on other sections of the act right now and giving us advice, the stakeholders out there. There are two particular groups actively working on making sure that some of their concerns are addressed.

Mr Carr: So they wrote this motion?

Mr Wood: It's a government motion.

Mr Carr: We're in that grey area again. It makes it a little more difficult, but I suspect it's like some of the other ones: If they don't agree, they'll still like it better than what they had. I guess we're not going to get too much more clarification than that.

Mr Brown: We can appreciate somewhat that the government has attempted to narrow the requirement for information slightly. Exactly the same arguments apply as applied in the section before where the opposition was

unable to convince the government that it should be further narrowed. But thank goodness for small blessings here, that the government has narrowed the requests at least slightly. While we can't support it because it doesn't go far enough to limit the information, I would say to the parliamentary assistant, at the end of a very long day, that we at least appreciate some movement in the direction of narrowing the broad scope of this section.

Mr Wood: Thank you very much.

The Vice-Chair: In that spirit of compliments, are we ready to take the vote?

Mr Hodgson: I'd just like to make one comment on this subsection 18(2).

The Vice-Chair: We're still on 18(1). We're ready to vote, then?

All those in favour of the government's motion, the amendment to subsection 18(1)? Opposed? Carried.

There is a Liberal amendment to subsection 18(2).

Mr Brown: I move that subsection 18(2) of the bill be struck out.

I'm sure that will carry. We find that this clause is totally objectionable, as did many of the presenters who came before us. It gives the minister the right to use what might be proprietary information, maybe information that would affect a company's operations, affect their stock holdings, affect all kinds of things. The minister seems to believe that even though he or she didn't pay for a report, even though the report may not have been relevant, even though the report had nothing whatever to do with the company's operations nor the good of Ontario's forests, he or she should be able to use that information as their own.

I think this has great ramifications across the province. I think the business community in general would find this objectionable and I think anyone who has any sense of individual rights and freedoms would find this to be objectionable, that the crown can expropriate your information that you paid for on the basis that it becomes their information.

Mr Carr: I want to echo what Mr Brown said. This is a concern. If we had done that to any individual, I think the government would be jumping up and down and screaming that there needed to be protection. Some of the groups that came forward said this section raises serious concerns regarding the confidentiality of company information and that there should be rules to protect some of this confidential information. We assume that the government won't take any of this confidential information and use it, but a lot of people don't trust any government to not do that. We've seen instances where in fact that has happened, and I think they need to have that protected.

1650

When it comes to the confidentiality of company information, this government seems not to be too concerned about the rules and the issues of fairness, but if it had been an individual, I'm sure they would be jumping up and down saying the government needs to protect people.

There are serious concerns with this, and I think it goes further than just this issue. I could get into specific examples that the minister would know, being very close to the situation, of how governments, in some cases with the backing and approval of government lawyers, can use information that they shouldn't. The example we all know is a perfect example of why companies are concerned. Confidential company information can be used, and they just want to say that there should be rules to protect it. I'd hoped the government would come up with some of the safeguards, but they just seem to totally disregard it. I believe the motion by Mr Brown is very, very serious.

I probably would have said a few years ago that any government would err on the side of protecting confidentiality, particularly when we've seen over the last little while changes to the privacy act where we've bent over backwards to protect individuals. Yet when it comes to a company the rules are thrown out, and there are major and serious concerns out there that information that is confidential will be put out to be used to persuade any type of argument. It is wrong, and no government should be doing that.

Obviously, as the government didn't introduce an amendment, they probably will vote against this. But this is one that I think they should take very seriously, because they could alleviate a lot of the fears if they were to strike out this section. If they'd support this motion, they could alleviate a lot of the fears that are out there because of circumstances that have happened over the last little while. It's very dangerous and it's wrong, and we should support the Liberal motion.

Mr Hodgson: I won't reiterate what my colleague's pointed out about the confidentiality aspect of this information becoming as if it were government information. It is quite common within the MNR to operate this way and I understand what they're trying to do. The parliamentary assistant mentioned that they're trying to get a database and collect information in a cost-effective way. It's very cheap for the government to have somebody else pay for the study to collect the data to base your inventory on. But I would like to suggest that there has to be a check, and the government can't completely abrogate its responsibility for verifying this information, and that's going to cost them money.

I'll use floodplain mapping, for an example, that the ministry does. Right now, if somebody does a study, it's up to the individual to prove what they can do on their land, so they hire the consultants and they do a study and that study is deemed to be public property. That forms the data at the local ministry office, and future decisions in that area are based on that study.

What's often overlooked is that the original motivation of the person doing the study can differ. For instance, if you're at one end of a lake, you can assume that the sides of the lake go straight up and that your property might have to be flood-proofed for one foot. That's no big hardship: It's cheap; you can do the study for about \$3,000 or \$4,000. But then everybody else down the lake is subject to that data, and nobody goes back and says the walls went straight up. You've set your benchmark, but on a

lake there are not walls that go straight up and it can flood over other parts. There might have been no human safety at risk by allowing development further downstream, but you've shut it off because your database has identified this as the base point and that's what you're going to make future decisions on.

I just want to caution the ministry that if it's going to accept the industry's data as the base for future decisions, it's not going to save as much money as it thinks it is. You're still going to go out and have your own experts verify how the study was done in the first place and get your own GIS system up and working. I know they're doing that. It's not going to be as cost-efficient as just handing over all the costs of these studies to gather your inventory to the industry. I wanted to mention that as a caution.

I understand it's very close to the time and I'd request a five-minute break.

The Vice-Chair: Mr Mammoliti was still on the list. He has a few minutes.

Mr Hodgson: I should have kept talking.

Mr Mammoliti: I wanted to suggest a way of expediting the hearings. After I listened to Mr Carr earlier, that's what prompted me to make this suggestion, that we perhaps adopt the Taiwan policy of committee hearings. I'd like to pass a newspaper article to the Chair that would outline exactly what that policy would mean. It's called a carrying-out policy.

Mr Carr: It would take more than four guys to lift you, George.

Mr Mammoliti: If we have to endure Mr Carr's speeches in this place one more time, I'd like to suggest that we adopt that policy to expedite the hearings.

The Vice-Chair: The question is, who will do the carrying? Any further debate?

Mr Brown: Coming back to our motion and away from the carrying-out resolution—I don't think it was actually a motion, was it? At least we have no copies.

In all seriousness, I don't think any government would want this in any piece of legislation. I understand a need for cooperative information-gathering, but there is no recourse under this for any individual or company supplying what they consider to be proprietary information, information they believe helps their competitiveness in a very competitive business, having to make that available as if it were the minister's own. It is Big Brother at its worst. It is photo-radar, except in this case you even have to pay to develop your own film.

Interjections.

Mr Brown: I would suggest to the Chair that perhaps we should take this up tomorrow.

The Vice-Chair: You're quite correct. It being 5 o'clock, this committee stands adjourned until tomorrow morning at 10 o'clock.

The committee adjourned at 1658.

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STANDING COMMITTEE ON GENERAL GOVERNMENT

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***Mammoliti, George** (Yorkview ND)

Mills, Gordon (Durham East/-Est ND)

Morrow, Mark (Wentworth East/-Est ND)

Sorbara, Gregory S. (York Centre L)

Wessenger, Paul (Simcoe Centre ND)

White, Drummond (Durham Centre ND)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South/-Sud ND) for Mr White

Carr, Gary (Oakville South/-Sud PC) for Mr Arnott

Duignan, Noel (Halton North/-Nord ND) for Mr Mammoliti

Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson

Jamison, Norm (Norfolk ND) for Mr Mills

Miclash, Frank (Kenora L) for Mr Sorbara

Morin, Gilles E. (Carleton East/-Est L) for Mr Grandmaître

Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND) for Mr Wessenger

Wood, Len (Cochrane North/-Nord ND) for Mr Morrow

Also taking part / Autres participants et participantes:

Wood, Len, parliamentary assistant to the Minister of Natural Resources

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Beecroft, Doug, legislative counsel

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Thursday 15 September 1994

Journal des débats (Hansard)

Jeudi 15 septembre 1994

Standing committee on
general government

Comité permanent des
affaires gouvernementales

Crown Forest
Sustainability Act, 1994

Loi de 1994 sur la durabilité
des forêts de la Couronne

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENT

Thursday 15 September 1994

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Jeudi 15 septembre 1994

The committee met at 1020 in committee room 2.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Vice-Chair (Mr Hans Daigeler): This committee will continue its clause-by-clause consideration of Bill 171. Good morning, everybody. I hope we'll continue with the speed we started to pick up late yesterday afternoon, but we'll see what happens on this last day that's been assigned to us in the between-sessions period.

Yesterday we left off at discussing Mr Brown's amendment to subsection 18(2). Is there further discussion on this particular amendment?

Mr Michael A. Brown (Algoma-Manitoulin): Just so members are reminded of what we are speaking about, we are speaking about the right of a minister under this section to treat all information that he requires and may get by ordering a company or a private individual to pay for a study which may or may not be related to the timber management of an area—the minister is, in this section, taking control of that proprietary knowledge that has been provided by a company or an individual. We believe that to be a gross invasion of privacy and are very concerned that there appears to be absolutely no control over what information can be made public.

I think members can understand the ramifications to small and even large businesses of having proprietary knowledge provided through the entire province without any protection at all. I'm sure the parliamentary assistant will say, "Well, no, we won't distribute that knowledge," but there's nothing in this section that prohibits that. There's no part of this section that says the minister and the actual holder of the licence must have a protocol to agree on what information can be disseminated widely and what is private information. In view of that, we see this, as I said yesterday, as Big Brother at his worst.

I would ask the parliamentary assistant if he believes it is necessary to have this section in the bill; whether he would not be willing to propose an amendment that could restrict the dissemination of that knowledge only with some kind of agreement with the proponent or the licence holder, some such mechanism, to ensure that private individuals, private companies, do not have information that should not be in the public domain, at least from

their point of view, provided to the public.

Having the minister take total control of information that he has not even paid for, on a basis which leaves the person or company that has provided the information with absolutely no say on what parts or sections of the information should be permitted to be in the public view, seems to us to be a gross invasion of the privacy of Ontarians, and therefore we're asking that this section be struck.

But we would be amenable if the government, through its legal counsel, has an amendment that would restrict the dissemination of information to information that's agreed on by both parties, or some such amendment. I'm not sure how to word it, or we would have tried to do it. But with the expertise the government has and the number of ministry staff the government has, I wonder whether they couldn't in some way limit the huge ministerial discretion that is provided for in this act.

We agree that it is useless and counterproductive to duplicate studies and to not share information. The difficulty here is that there is absolutely no control over what information may be provided to the public through the minister. I think Orwell would have some problems with that, as we do.

I'm asking the parliamentary assistant if he would not consider some kind of limitation on the minister's power to make public this sort of information.

Mr Len Wood (Cochrane North): I don't want to get into a lengthy debate, but we feel this subsection of the act is necessary for use of information in reporting to the public on forest planning. The information required by this section is already available to the public through the Freedom of Information and Protection of Privacy Act, with the exception of proprietary information. We moved an amendment to subsection 18(1) at the end of the day yesterday, that was adopted, which we feel helps to clarify along those lines. We will not be supporting the Liberal amendment to strike out subsection 18(2).

Mr Brown: If I understand the parliamentary assistant, he's saying this information is available in any case through the information and privacy act.

Mr Wood: The Freedom of Information and Protection of Privacy Act.

Mr Brown: That's why there's a process through the freedom of information and privacy act to ensure that an individual's or a company's privacy is not being invaded. Therefore we have a commissioner who looks very carefully at the freedom of information and privacy act's implications, what information can be disseminated. What

you are doing here is taking that protection away from the public, taking the protection of the Information and Privacy Commissioner's office away from companies or individuals.

I'm not going to make any comment about recent events with the freedom of information and privacy act, but it seems to me that it's useful for government to protect the privacy of individuals, and we do know that the privacy commissioner will, if he finds that this information should not be in the public domain, make such a ruling. Why would the government want to circumvent the Office of the Information and Privacy Commissioner?

Mr Wood: We're dealing with crown land; we're dealing with public information. As I said in comments earlier, the province is the landlord of this and we feel this subsection is necessary for public participation in the crown land and forest planning, and reporting to the public on how the planning is taking place.

Mr Brown: The parliamentary assistant always refers to the landlord-tenant relationship in this. If I'm the landlord of an apartment building, I may require some kind of credit check on a tenant who may come in which might involve the disclosure of income, all sorts of private information. I would be in big trouble if I were to release that into the public domain without the consent of the tenant. I'm wondering why the government does not feel that it is in the same position, using your analogy.

We are not opposed to releasing information that is public information. The difficulty here is that the minister's the sole arbiter of what is public information. We have circumvented the normal legislative regime in Ontario for deciding what is public and what is private.

Mr Wood: I disagree with your interpretation. I've got no further debate on it.

Mr Brown: Is there a reason for disagreeing with my interpretation? You have obviously circumvented the freedom of information and privacy act. There's no question; that's what this section does. It gives the minister total discretion.

The Vice-Chair: The parliamentary assistant has indicated that he doesn't wish to debate it further. Anyone else who has any questions?

Mr Brown: He's raised an interesting point that I haven't really thought of. Maybe he hasn't circumvented the freedom of information and privacy act. If it becomes the minister's information, does that mean the Information and Privacy Commissioner will rule on any information that the minister chooses to divulge? I suspect the legal counsel's the one who can help me with that.

1030

Mr Doug Beecroft: I'd really like to look at the Freedom of Information and Protection of Privacy Act before I gave a definitive answer on that.

It certainly seems to me arguable that subsection 18(2) does not override provisions of the Freedom of Information and Protection of Privacy Act that preserve confidentiality of trade secrets and things like that. The Freedom of Information and Protection of Privacy Act generally makes government information available, but there are

exceptions for trade secrets and personal information. It seems to me quite possible that those exceptions are still applicable to this kind of information, but I would have to look at the act to be more certain.

The Vice-Chair: Are we ready to vote?

Mr Brown: I think the issue is foggier than ever, Mr Chair. The government may prefer to stand this down rather than vote on it until we can get some clarification from counsel.

Mr Wood: No, I think we're ready to vote.

Mr Brown: "We don't want information, we want a vote." That's unreasonable, I think, but I'm not here to determine what's reasonable.

The Vice-Chair: It certainly wouldn't be in my power to determine that. Ready to vote, then?

Mr Brown: Recorded.

The Vice-Chair: A recorded vote. All those in favour of Mr Brown's amendment?

Ayes

Brown, Carr, Hodgson, Morin.

The Vice-Chair: All those opposed?

Nays

Duignan, Ferguson, Hope, MacKinnon, Wood.

The Vice-Chair: The amendment is lost.

There being no further amendment to section 18, is there further debate on section 18?

All those in favour of section 18, as amended?

Mr Brown: Recorded vote.

The Vice-Chair: A recorded vote. All those in favour?

Ayes

Duignan, Ferguson, Hope, MacKinnon, Wood.

The Vice-Chair: All those opposed?

Nays

Brown, Carr, Hodgson, Morin.

The Vice-Chair: Section 18 carries.

Mr Wood: I move that subsection 19(1) of the bill be struck out and the following substituted:

"Minister's report

"(1) The minister shall prepare a report on the state of the crown forests at least once every five years."

I think this is one of the motions that pretty well mirrors a Liberal motion as well as a Conservative motion, which is kind of interesting. I'm pleased that all three caucuses are on the same wavelength and pretty well agree with that amendment.

The Vice-Chair: Any debate?

Mr Brown: Just to indicate our support for this amendment, as it is very similar, if not the same, as our amendment to the same section; and to indicate that it is necessary to comply with the EA board's term and condition 84 and that this makes it consistent through the entire province, not just the part of the province that is under the mandate of the class environmental assessment.

Mr Chris Hodgson (Victoria-Haliburton): Obviously, we support the amendment.

Mr Brown: I have one more question now. In preparing this report, will it be that the report will include the state of all of Ontario's crown forests, that is, all forests on crown land, including provincial parks?

Mr Wood: By putting this into the legislation, we're committed to giving a public report on the state of the crown forests throughout the province. It's been recommended by all the environmental groups and by Peter Duinker, who came in front of this committee. When we're talking about the state of the crown forests, we're not really making a determination one way or the other in terms of drawing the line.

Mr Brown: So you're saying it would include all forests that are under the supervision of the crown, including provincial parks?

Mr Wood: What we're saying by this amendment is the commitment from the minister to the public to report on the state of the crown forests.

Mr Brown: You're avoiding me, I think. Does it include the provincial parks? I think you have to understand the reason we're concerned with this. If you get a report on the state of the forests and you define that forest in terms of the industrial forest, ie, the forest that's under the licence of various companies and/or individuals, it will give you a different result than if you include the protected areas of the province also.

Mr Randy R. Hope (Chatham-Kent): Try the definition of "crown forest" and you'll understand.

Mr Brown: I would like to understand, when you say, "I'm going to report on the state of the forests"—

Mr Hope: "'Crown forest' means a forest ecosystem or part of a forest ecosystem that is on land vested in Her Majesty"—

Mr Wood: As my colleague Mr Hope has pointed out, there is a definition under section 2 that defines crown forests and you're asking us to define it again here. As I said yesterday, there are a number of other acts that apply to provincial parks and I'm sure they will be amended as required, depending on how long this government stays in office and whether we're successful in achieving another majority government some time in 1995. I'm sure we'll be amending legislation as we go along to achieve the goals to the best benefit of the taxpayers of the province of Ontario.

Mr Hodgson: The parliamentary assistant, in his last remarks, summed it up. It will make the people of Ontario sleep better, is how I referred yesterday to that answer.

In section 4, where you exempt provincial parks, there's not going to be a report unless you change the parks act, is that what you're saying? I share Mr Brown's concern, that the people of Ontario should know the state of the forests inside the parks as well as outside the parks. They're all crown forests. But I also appreciate the parliamentary assistant's rationale that you have to change another act to do that. Hopefully, that'll be forthcoming and we won't have to wait for the NDP to form another government.

Mr Wood: Along the same lines, we're also looking at the concerns the Conservative caucus has about private

lands and we're looking at some kind of template or blueprint to deal with that as well.

Mr Brown: I take it this legislation, in your view, just requires the minister to provide information to the Legislature on the forests that are under management or under licence to companies that are involved in timbering?

Mr Hope: No, it means crown forests. The definition applies—

The Vice-Chair: Mr Hope, you don't have the floor.

Mr Brown: I just want to be absolutely clear about what this says, because it makes a difference in the interpretation of the report when the report comes out. We're not talking about the 8% or 9% of northern Ontario's land mass that is now in a provincial park.

Mr Wood: What we are attempting to do here is to amend the wording as it is there now: "The minister shall from time to time prepare a report on the state of the crown forests." We're following exactly along the lines of what the Conservatives have brought forward, what the Liberal caucus has brought forward, in saying that the minister shall prepare a report on the state of the crown forests at least once every five years. There are other sections in the act which deal with what you're concerned about, Mr Brown, and we've dealt with them as we go along in amending the legislation.

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Mr Brown: So you're telling me that this would exclude the provincial parks?

Mr Wood: I'm telling you that this particular section is changing the words "from time to time" to "at least once every five years."

The Vice-Chair: We're probably ready to vote. All those in favour of Mr Wood's amendment to section 19? Opposed, if any? Carried.

The two other amendments, the Liberals' and the Conservatives' motion being almost identical, they would be out of order.

Any further amendments? Shall section 19 as amended, carry? All those in favour? Opposed? Carried.

Mr Brown: I move that section 20 of the bill be amended by adding the following subsection:

"Negotiations

"(2) The minister shall enter into negotiations with first nations that have communities in management units in respect of the matters referred to in term and condition 77 of schedule A to a decision of the Environmental Assessment Board released on April 20, 1994, in respect of the class environmental assessment by the Ministry of Natural Resources for timber management on crown lands in Ontario."

Again this amendment is to make clear that the legislation needs to be consistent with the class EA terms and conditions, in particular 77. It's put in place because we believe that the present section as it stands creates some confusion and perhaps some differences of opinion about whether the EA terms and conditions are being applied in the same manner

Mr Wood: We will not be accepting the amendment.

We feel that the section as it is deals with what the class EA has said should be done. Section 20 provides the minister with the authority to enter into agreements with first nations where joint authority for management is desired, and we don't want to restrict the flexibility of the government to negotiate in the future. Relationships with first nations are evolving now, and section 20 states: "The minister may enter into agreements with first nations for the joint exercise of any authority of the minister under this part."

This is happening right now. It's happening with at least two bands in my riding, the New Post First Nation and the Constance Lake First Nation. The negotiations and bargaining back and forth are developing, and we're concerned that adding another section—we shouldn't have to negotiate. We should be able to go ahead and work out agreements.

Mr Brown: The amendment is not attempting in any way to keep the government from doing that. It is just trying to make it consistent with what the timber EA said in respect to first nations. We think our amendment makes it clearer. If the government is happy, we can look for some time in court, I suspect. All we are attempting to do by this amendment is to make it consistent, which the government doesn't seem as concerned about as we are.

Mr Wood: We feel it is consistent and there's no need for a further addition to it.

The Vice-Chair: Any further debate on the Liberal amendment? If not, all those in favour of Mr Brown's amendment? Opposed? The amendment is lost.

Seeing no further amendments to section 20, shall section 20 carry? I'm sorry, you want to debate that?

Mr Brown: There has been concern raised, seeing as this section is specifically mentioned in the act, about whether the minister has authority to enter into negotiations and agreements with other entities aside from first nations. We heard from the hunters and the anglers, for example, suggesting that they perhaps would have some interest in some kind of partnership agreement, and I can think of many others that might conceivably in the future have some interest in the same area. Many of them would be non-profit groups: It could be the federation of naturalists, it could be—the sky's the limit as you think about that.

The question I'm asking is, does the minister have authority to make other agreements, other than this one, with other groups, say, the Conservation Council of Ontario or whatever?

Mr Wood: This one deals with aboriginal first nations, and section 12 deals with your concern: committees and boards.

Mr Brown: Can I just look at section 12?

The Vice-Chair: In the meantime, Mr Hodgson had a question.

Mr Hodgson: I too will be voting against this whole section. I feel it's covered under section 5 of this act. "This act does not abrogate, derogate from or add to any aboriginal or treaty right that is recognized and affirmed by section 35 of the Constitution Act, 1982." As Mr

Brown pointed out, there are other groups that would like to have joint agreements, and I feel if it's legitimate, it's covered by the act the way it's written under section 5.

Mr Brown: I've just had the opportunity to review section 12, and I cannot see in section 12 where those agreements can be made, unless the parliamentary assistant helps me. It says, "The minister may establish local citizens' committees to advise the minister on the preparation and implementation of forest management plans and on any other matters referred to the committees by the minister."

What it says to me is that the local citizens' committees, groups, whatever can provide advice to the minister. It doesn't say anything about—

Mr Wood: I believe section 12 was amended as well.

Mr Brown: Oh, good; now it's getting more complicated. Oh, you're talking about the functions of a forest management board, and you believe that would give the minister the power to make agreements with one or several or—

Mr Wood: There's flexibility there.

Mr Brown: I would have to agree with you on that.

I would just say to Mr Hodgson, though, that section 20 is required by the timber environmental assessment, which is the law of the land. I just make that point to him.

The Vice-Chair: Are we ready to vote on section 20? All those in favour of section 20? Opposed? Carried.

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Section 21: Any comments, questions, amendments?

Mr Wood: That's clear. There's no questions that I'd like.

Mr Brown: Well, we're not all speed-readers.

The Vice-Chair: Any comments? Of course, I want to give members a chance to read what they are voting on.

Mr Brown: An interesting concept.

The Vice-Chair: Are we ready to vote?

Mr Brown: I have a little problem with subsection (2), and I would like some clarification. It says, "The minister shall not enter into an agreement under section 22 or grant a licence under this part except in accordance with a competitive process." Could the parliamentary assistant describe the competitive process? Is it that I will pay more than Mr Mammoliti? Is that the essence of it, or is it a tender situation, or is it clarified somewhere in the regulations or manuals that I'm unaware of?

Mr Wood: Competitive: I would use the word fair.

Mr Brown: Is there a description of the competitive process anywhere?

Mr Wood: There were discussions when we were dealing with the manuals and regulations of present examples being used out in the forests right now. It is somewhat competitive.

Mr Brown: Yes, but the people, in order to make a competitive bid, have to know the basis of what the competitive bid will be evaluated on. If the normal tendering system for the province of Ontario requires a

certain degree of openness and a certain degree of accountability in that tender, surely someone who is in a competitive process would like to know whether it is a 100-metre race or a 10-kilometre race before you enter the competition.

Could you tell us how those decisions are made? We're starting now to get into the real nitty-gritty of the bill: Who gets what. That is a cause of great commercial consternation and also a cause of great concern to not just companies but communities that are dependent on wood availability etc. Is the government going to spell out what they mean by "competitive"?

Mr Wood: Most people would know what competitive means. When you're bidding for something, you cannot restrict it to one particular person. If somebody else wants to get into the competitive business and get involved in it, it's an attempt to not be restrictive.

Mr Brown: Again, I think you have to be aware when you're getting into a competitive process what the goals and the specifications are that the person who's making the tendering is asking for. I think my question is critical. When we were in northern Ontario, for example, we heard people from Rainy River, a forest company, that was reasonably happy about a decision to locate a plant in Fort Frances; that's understandable. We then heard from Avenor, who were unhappy that their wood allocation had been given to Fort Frances or to the Rainy River organization.

Mr Wood: Because they didn't want to compete.

Mr Brown: You say they didn't want to compete, but that's exactly the question: What is the process? Avenor indicated that they weren't part of the process, weren't happy with the process. You say it was competitive, but one of the people who was involved doesn't know what the criteria were, doesn't understand. If it's just, "Who's going to pay me more for the wood?" that's relatively simple, but I don't think that's what you mean by "competitive process," is it?

Mr Wood: I don't want to get into a long debate on this, but as we're speaking right now there's an announcement being made in Timmins about sustainable forestry, sustainable jobs, and it was a competitive situation that is going to be good for the city of Timmins and the whole surrounding area. It's a process that has been going on now for about six or eight months, and it's finally come to the point where the press conference is being held at 11 o'clock this morning in Timmins to make the announcement.

The competitiveness is there, creating jobs, protecting jobs, protecting the communities and using the resources out there on a sustainable basis to better the people of Ontario and the communities we live in.

We've announced a new operation in Wawa. That's the first new operation that's been out there on the ground in 15 years, and it's all on a competitive basis: bidding and raising the dollars and saying, "We're ready to put the shovels in the ground and get this province back to work." They're competing on that basis. The banks are involved. Everybody's involved in putting Ontario back to work on a competitive basis.

Mr Brown: I understand that it's hard to discuss this in the abstract, and I'm perfectly happy that you've pointed out the situation in Timmins this morning so we have a concrete example. You could maybe indicate what the competitive criteria were in that situation so we could understand that; then we would have some very specific items we would know, that you went out and asked for proposals, and, "This is what we're looking for in those proposals."

Mr Wood: That was all covered through press releases over the last six or eight months. A message went out for proposals, that there was a surplus of hardwood, poplar and birch out there: "Let's see how it can be done to create jobs and protect jobs in some of these communities." This will be the fifth announcement that has been made on the use of poplar, and it's been on a competitive basis.

Mr Brown: How did you evaluate who was the winner? I would suspect you got a number of proposals for the use of this surplus wood. How did you decide that A was better B was better than C? That's really the question. On what basis do we make those decisions?

Mr Wood: I don't have that information with me, but it is public information. It was spelled out in detail in the request-for-proposals package that was sent out, as to what they should be coming up with to be the successful bidder. It was in public documents; it's public out there.

Mr Brown: You'll have to excuse the poor members of this committee for not having access to all those public documents.

Mr Wood: As the forestry critic, you got a copy in the mail, I'm sure.

Mr Brown: I'm sure I didn't. That's really not the issue.

Mr Wood: If you didn't get it, I apologize, because I'm sure you should have got it.

Mr Brown: I'm sure we did not get it. That's really not the point. There's another critic for Natural Resources here; maybe he got it, I don't know. But I'm sure the rest of the members of the committee didn't get it, absolutely sure.

The Vice-Chair: Mr Hodgson wants to speak anyway.

Mr Hodgson: I realize we're on a tight timetable today so I'll try to make my comments brief.

The parliamentary assistant opened up an area that I do have a couple of questions about. I didn't receive the criteria, but I trust it could be coming.

Defining a surplus: I assume what they did is said there's a surplus in poplar and aspen, but it was on the first licensee's licence and they had a plan for it to be used in their own factory to be built in five years' time. Under the old Crown Timber Act, you would have to negotiate with them, I understand, but under this act the minister could allocate that surplus to a third-party licence holder and then award the contract in press announcements of a factory someplace else. When you're mentioning the studies done on the surplus, is that public information, or has it been done yet, or are these announcements contingent on surpluses being found?

Mr Wood: No, the inventories out there have been identified, and there's enough fibre out there in other species that were considered to be a weed and were being bulldozed over the years, not being used. There's enough inventory out there to sustain these operations.

1100

Mr Hodgson: Let me be specific. We were in Fort Frances and there was a front-page story in the newspapers of a \$100-million investment announcement for the forest industries. Had the forest surplus been identified to support that announcement, or is that announcement contingent on finding the surplus?

Mr Wood: I missed the last part of that.

Mr Hodgson: The surplus, if it exists, I would assume would be in a public document if it's been identified, or is that announcement contingent on finding the surplus?

Mr Wood: No, it's not "if" the volume exists. The volume did exist. You're not going to have a bank loan \$100 million based on the fact that if we find something—

Mr Hodgson: That's what I'm asking. The announcement was there—

Mr Wood: The decision was made that it was there and as a result the financial institutions are coming forward and putting up the dollars to—

Mr Hodgson: So that study's public, to show where the surplus is for that particular factory?

Mr Wood: Yes, and it's available from the timber management plans.

Mr Hodgson: So the inventory's been verified.

Mr Wood: By the companies that are making the investments, yes.

Mr Hodgson: Who did that?

Mr Wood: I'm not sure who did it.

Mr Hodgson: I know who did it. You're sure that study's available?

Mr Wood: If I didn't have some security, Chris, in asking the bank to come out—

Mr Hodgson: I realize that. That's why I'm asking. It's a very important issue. It's very serious.

Mr Wood: The banks or the financial institutions have come forward with well over \$300 million, I guess it's got to be at this point in time, in northeastern and northwestern Ontario for investing.

Mr Hodgson: Exactly, so they'd have to have documentation showing there's going to be a supply. Where's that supply coming from?

Mr Wood: A lot of it is coming from crown land; it's wood that's not being utilized.

Mr Hodgson: On FMAs held by whom, or crown units that are licensed to whom? When we were up there, there was a bit of discussion about this.

Mr Wood: The discussion is still going on. The negotiations are still going on. There are third-party—

Mr Hodgson: But the banks have lent the money and the announcements were made, but they're still negotiating with the licence holders?

Mr Wood: The companies that are making the announcements have commitments, have assurances.

Mr Hodgson: I realize that, but you said the timber studies are done but we're still negotiating with the licence holders for the supply. Have I been following?

Mr Wood: No, I didn't try to give that impression.

Mr Hodgson: So they're still negotiating for the supply, but the announcement and the commitment's there to invest that kind of money.

Mr Wood: The supply is there, the commitment is there for the money, and the shovels are in the ground and they're building.

Mr Hodgson: Granted, I'll give you that the trees physically exist, let's assume they physically exist, but you still have to go and negotiate with the licence holders to take those trees to another mill than the one the licence holder owns.

Mr Wood: They sit down together and work out agreements and then take it to the bank or the financial institutions.

Mr Hodgson: But that's just starting, that process.

Mr Wood: It's been going on for over a year, and as the agreements are put in place, announcements are being made jointly by MNR and Howard Hampton and the companies involved.

Mr Hodgson: So the announcements are made after the agreements are made, or have the announcements been made before the agreements have been worked out?

Mr Wood: No, the announcements are made after.

Mr Hodgson: After the agreements, so, for instance, in Fort Frances—

Mr Wood: There is a possibility of it happening and then there's the announcement that it will happen and it is happening.

Mr Hodgson: So whereabouts are we with—the only one I'm really familiar with is Fort Frances, because we were up there. That announcement was made because the agreements have been made on where the timber's coming from to supply this new investment? Do you follow, Len?

The Vice-Chair: Mr Hodgson, I would remind you that you said you were going to be quite brief with your questions.

Mr Hodgson: That was a brief question but it was a long answer.

Mr Wood: I guess we could go on for ever, but everything is at different stages; there are different operations at different stages as we proceed. Spruce Falls has a licence and they're going to be starting up their sawmill in January; this has been under construction now for a period of time. Other ones are putting the shovel in the ground, other ones are just at the beginning stages. There are all different stages that are taking place.

Mr Hodgson: So was the Fort Frances announcement just a preliminary announcement that this is going to be looked at, or is this definitely going ahead because the agreements have been all completed for the supply?

Mr Wood: I'll have to phone a couple of people I

know in Fort Frances to see what stage they're at right now.

Mr Hodgson: When we were out there it was clear in the local newspaper that this was definitely going ahead, or it seemed to be giving that impression that it was good for jobs, it was good for the area.

Mr Wood: Rainy River Forest Products had made an announcement and it was up on the bulletin boards in the airport.

Mr Gary Carr (Oakville South): I'm going to be very brief too, and it's on the same point. With Fort Frances, you talked about the banks, that money's out. I take it you've got to go back and look at that one because you're not sure. What we're getting at is that these announcements are being made, but have the banks actually transferred money in the Fort Frances case to the companies? Do you know? You said the bank's been out, the money's been loaned. Has the money been transferred to the companies yet?

Mr Wood: I don't know what their financial arrangement is, whether they pay the bills as they get them or whether they go out and give them a chunk of money to put into—

Mr Carr: That's what I'm getting at.

Mr Wood: I wouldn't even want to get involved in that financial part of it.

Mr Carr: No. What you're saying is that the banks have loaned. I trust they wouldn't, until they check the supply, actually transfer any money. That's what I'm getting at. They haven't done that, in my opinion. Quite frankly, you're making an announcement that—let's be very blunt and honest—is political, because the election's coming up. You're making an announcement.

Mr Wood: The one in Fort Frances was not a political announcement. It was made by Rainy River Forest Products. That was their announcement. They put it up in the airport, I saw it there, and—

Mr Carr: But we don't know what the supply is.

Mr Wood: —they were doing a follow-up with the ministry after.

Mr Carr: Obviously, they want to make the announcement too, but what we're getting at is that there could be a problem in terms of supply.

Mr Wood: No, there is no problem in terms of supply.

Mr Carr: Okay. So the money's all been transferred, the banks have said, "Great, here's the money, away you go." No?

Mr Wood: You'll have to check with your bankers.

Mr Carr: Announcements are made in anticipation. I've seen over the years announcements made three times for hospitals. There's the announcement that it's going to be coming, another announcement, then the announcement when, to use your term, the shovel is actually in the ground. On the Fort Frances one, when are we going to see the actual shovel in the ground?

Mr Hope: On a point of order, Mr Chair: What does this have to do with the section we're making reference to? I'm just having a hard time understanding—

Mr Carr: The availability of resources is what this whole issue is about.

Mr Hope: It's dealing with the competitive process in the section that's being referenced to. I'm having a hard time understanding where they're coming from.

The Vice-Chair: Mr Hope, this is not a point of order. Questions are in order during clause-by-clause consideration.

Mr Hope: Pertaining to the section being referenced.

The Vice-Chair: Pertaining to the section, yes. They will pertain—

Mr Carr: Then I will reference. This whole issue is that the Fort Frances announcement is based on availability of resources. I'm asking the parliamentary assistant, when are we going to have the shovels in the ground, actually have activity? Do you know that?

Mr Wood: Yes. They're at different stages right now. Five announcements have been made—

Mr Carr: No, the Fort Frances one.

Mr Wood: —but some of them are at different stages of construction as we speak. As I said, Spruce Falls is basically completing their construction. The one in Wawa, when I was there, they had cleared all the land and were putting in the foundations for the operation. They're all at different stages. Because announcements were not all made on the same day, some of the shovels are deeper in the ground than some of the other ones are.

Mr Carr: Specifically on Fort Frances. We heard Wawa, Spruce Falls very clearly. Just let me know, where are we at with Fort Frances?

Mr Wood: To my knowledge, there's no reason why Fort Frances will not be moving ahead and they will have a splendid operation there that will be making profit and creating employment and making the people of Fort Frances happy for years and years to come.

Mr Carr: But their shovels aren't, to quote you, "deep in the ground" yet?

Mr Wood: I haven't been to Fort Frances in the last couple of days.

Mr Carr: We'll just sum it up. I think we've gathered that what we've got here is that announcements are being made before—and I appreciate that the parliamentary assistant is very confident they're going to be proceeding, and in the case of Spruce Falls they did. What I'm saying is that we're probably going to have an announcement and another announcement and another announcement as we go along, and that is done, in my estimation, for no reason other than political. But, as you see, in this particular announcement there is some concern because we can't get definite answers on it. I'm not going to belabour the point. I think we know where we stand with that, so we may as well just move on.

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Mr Brown: To speak directly to the concern I raised in the first place, which is the competitive process, I am aware of one proposal that the ministry called for, and I don't have it with me so I won't be able to go through it. It was the proposal for Thunder Bay, I believe. I believe we received a copy not from the ministry but actually

from the Thunder Bay Economic Development Corp or some body like that.

I have two points. In that proposal—and it struck me as a strange way to do it, but maybe not so strange—one of the conditions of that call for proposals was that the proponent identify the wood supply. As you've described the process, the ministry would have declared the wood surplus and then I guess people would go out and make agreements regarding the surplus wood, but in this one it very clearly said "identify" the wood supply in its proposal.

Mr Wood: This is along the lines of Bill 171. It's to hold the companies responsible for doing some of the work.

Mr Brown: I won't pursue that because I'm not sure where that's going. But the second question I have is that we have heard a great deal about communities and about how this bill is not only to sustain the forest in an environmental and in an industrial forest sense, I take it, but also that it's to sustain people—that means jobs—and that it is supposed to sustain communities.

I'm wondering what the thought process in this competitive process is in terms of the Thunder Bay example, for instance, because it's the only one I've seen a call for proposals for; how it was determined that the call should be for a facility in Thunder Bay. Is it because the wood supply that the ministry has identified is nearer that community? Especially when we were in North Bay we heard a lot of people and communities come before us saying, "In order to sustain Wilberforce Veneer in Wilberforce, we need to have a wood supply." We heard people from Mattawa come before the committee and make the case for increased wood supply and what that would mean to the operations in their community in both the forest and the manufacturing end of it.

How does the ministry determine whether Wilberforce is the winner or Mattawa is the winner in this competitive process? If we're talking about communities and how that fits—that's why we would be much more comfortable if you would define the competitive process so that we would know what in fact you mean. The way it is at the moment is that justice not only has to be done, it has to be seen to be done. This is not a very open process in terms of how competitive proposals may be evaluated. If you don't know what the yardsticks are, it's very hard to meet them. Our question is, how do you make those decisions?

Mr Wood: I'd be willing to sit down with you and discuss any complaints you have from any of the proponents out there on the bidding on it. Other than that, we could drag this on for days and days and days debating. As far as I understand, the proponents out there are quite happy that they're in the competitive business they're in. That's all I have, Mr Chair.

Mr Brown: I don't understand the reluctance of the government to define "competitive process."

Mr Hope: You've been asking him to name names. In the definition, the terminology is—

The Vice-Chair: Order, please. Mr Brown has the floor.

Mr Brown: Mr Hope is making my point for me.

The Vice-Chair: Mr Hope, do you want to be on the speaking list?

Mr Hope: It's redundant, what Mr Brown is asking.

The Vice-Chair: Okay, Mr Hope, I've put you on the list; you'll have an opportunity later on.

Mr Brown: I'll ask it this way, then. This is a policy decision, because obviously Mr Wood believes these to be policy decisions, not statutory decisions. Will the government indicate to us what the yardsticks are, the evaluation, the measurement of "competitive process"? What are they?

I'm not complaining or saying that you've done wonderful things. I'm not doing either. I'm only saying that I think the people involved in this business, involved in those communities, involved in working in the forest, would like some certainty about what process they're expected to be in other than the very vague term "competitive."

Mr Wood: And as I said about half an hour ago, Mr Brown, the details of that are in the package for requests for proposals. All the proponents had a package of that, and I was hoping both critics had each received a package on it. You're saying you didn't get it, and that's unfortunate, but details were out there, and I personally haven't had any complaints from the proponents. If you have had complaints, I think you and I should sit down and talk about it.

Mr Hope: Mr Brown is pretty adamant about this term "competitive process," I think what Mr Brown would want to do, with his background and talking about the northern part of Ontario and dealing with the woodlots, is make sure that the competitive process is one of an area competitiveness versus a written scripture that's in any process. If you're talking about being competitive, I think you would want the area to be competing in terms of receiving an opportunity, versus somebody from outside the community coming in and doing that process.

You're pretty adamant about the definition of "competitive process." Well, I was adamant when the Conservative government brought forward the free trade agreement and they started talking about, what does "competitive" mean? I got their definition: lean and mean. But they didn't tell me that, I found that out later.

When you're moving on the issue of competitive process, anything that is an open process of government you know has a yardstick attached to it, and the yardstick is attached on the definition of the community. I would believe that you would prefer that be the process. Now, I'm not 100% sure whether it was used in the ones you're making specific reference to, but I believe your terminology and what you're trying to get across is that the competitive process must be one that's reflective of a community. The definition of "community" then becomes another argument, but I won't enter that one.

But leaving it worded as it is, as Mr Wood has tried very hard to clearly indicate to you, is that the competitive process that was used in those areas which are now receiving the awards, in Thunder Bay and others, was one that has been through both sides of the community,

opportunities for the community, and there is usually only one successful bidder in any process. But if you want further information, I'd recommend that you write the freedom of information and protection of privacy officer and ask him for detailed information about those specific bids you're looking for.

The Vice-Chair: I'd just like to remind everybody that we're at section 21.

Mr Brown: In responding to section 21 and talking about competitiveness and the competitive process—just to make sure I made reference to it—I think Mr Hope makes some good points. I agree. That was one of the things that was brought out particularly in North Bay at the hearings there, but in other communities also. There are other factors here than straight price. There are sometimes even other factors here than straight number of jobs created. There are sometimes questions of maintaining a family business that has been the heart of a community for 100 years. There are numerous conditions surrounding all these questions of wood supply.

What I'm concerned about really is, what is the government's policy? How can we articulate that framework? I don't suspect you can put in a list of things that would apply to every situation in Ontario, but I would certainly appreciate some kind of overall framework for knowing what the competitive process is: What will the government be considering, what will the minister be considering when he grants a licence to Mr Hope, or to myself, or to Mr Wood?

I can see we're not resolving this question satisfactorily.

The Vice-Chair: This would seem to me to be the case as well.

1120

Mr Brown: I'm wondering, though, if the parliamentary assistant could perhaps furnish the committee, at his earliest convenience, with copies of the call for proposals for the five projects that have been approved. Maybe we can discern from the practice what the process is, rather than the other way around.

Mr Wood: There's no confidentiality to that and I'm surprised you didn't get it already.

Mr Hope: It also gets to a consideration of section 22 of this bill, which is not currently law. Section 21 also makes reference to the Lieutenant Governor. It says, "The minister shall not enter into an agreement under section 22 or grant a licence under this part except in accordance with a competitive process." There is a law here, that has not been passed, for this new process versus the old process. It's just when you're making reference.

Mr Brown: I think the parliamentary assistant, however, is making the case that the process that has gone on in the five projects that have been approved to date will be the same process that is followed under this bill, Mr Hope, and I believe the Crown Timber Act provides for that. This act may in fact make that easier or more difficult, but it is the same process.

I have to indicate that we will be opposing this section, for the reason that the government fails to define "competitive process" at least in a policy framework.

The Vice-Chair: Are we ready to vote? All those in favour of section 21? Opposed? Carried.

Mr Brown: I move that subsection 22(1) of the bill be amended by inserting "for a five-year period" after "agreement" in the third line.

If you give me a second, I might be able to tell you why I want to do that.

The Vice-Chair: We'll give you a second, even two seconds, but not much more.

Mr Brown: Thank you, Mr Chair. You're so generous. I think our concern with this section is the same concern we have with regard to the former FMAs. We would hope there'd be an evergreen clause in this, but that there is some fixed date that could be changed if people aren't performing or whatever. Right now, you're granting those virtually for ever, without performance criteria. We're talking the management units, not the FMAs. It speaks to wood supply, utilizing the available wood supply and not having someone sit on it, so to speak.

Mr Wood: In this particular section, the intention is that we don't really want them to have to be five years. It could be less than five years or it could be more than five years, subject to approval from the Lieutenant Governor in Council. That flexibility should be there for the security of a community or of a facility. I know the area you're talking about, where you have 20-year agreements and they're out for public review every five years. In this particular area, we want the minister to be able to look at something in less than five years and also look at something in more than five years, or in between the five years and 10 years, for the security of a particular community or of a particular facility that is there.

We've been dealing with a lot of different communities. A week ago I was in Arnprior, where Tembec has taken over a Braeside operation. The concern there was to get somebody involved who is going to be able to supply some security to the community and use the resources from all around; eventually, as the trees grow, there might be further security in that community. But in the meantime, it's to be able to licence short-term or long-term or for a certain particular time. That's the section we're dealing with, and that's why we will not be accepting your amendment.

Mr Brown: Maybe you've helped me, because I didn't quite understand that in the terms you are putting forward. What you're telling me is that this would give you the flexibility if, on a particular unit, you wanted to let someone use it for a year because there's a surplus for a year; that you'll be able to make those rather flexible arrangements and that's really the need for the design of this section. I was reading it as a more long-term section.

Mr Wood: Yes. We have to decide what the long-term solution is for that particular facility, but in the meantime you can deal with it over a short period of time.

Mr Brown: Can you help me, then, on these one-year—which I agree are necessary; I think it's a good idea and it's been done for a while. Who, in that case, provides for the forest management plan? Is that some-

thing the ministry will have done and determined? Mr Brown, who did hold the licence, is no longer interested, for whatever reason, and has given up his tenure on that particular unit, but in the interim we need to harvest the wood that is surplus, so now Mr Hodgson should do that for a year. But will he be operating under a forest management plan, which are drawn up for five years, that was mine, not Mr Hodgson's?

Mr Hodgson: What was that?

Mr Brown: I'm sorry. I just used your name totally out of context.

Mr Wood: He's got you building a paper mill somewhere.

The flexibility is in the act for the minister to be able to deal with those situations, Mr Brown.

Mr Brown: But after me, would the next person in there be operating under the forest management plan that was drawn up for a different company, whose goals may be quite different from mine?

Mr Wood: I think we'd have to get out on the ground and have some dialogue and discussion and resolve it there.

Mr Brown: So your answer is that this section is to grant the ministry the ultimate in flexibility in dealing with those aberrations in the forest in terms of commercial activity.

Mr Wood: Yes.

Mr Brown: Then I will withdraw my amendment, because I think it is actually not helpful.

The Vice-Chair: Any further comments on section 22? All those in favour of section 22? Opposed? Carried. 1130

Mr Wood: I move that subsection 23(1) of the bill be amended by inserting "renewable" before "licence" in the third line.

One of the concerns brought forward by a number of people was, what happens at the end of a five-year or 10-year or 15-year term on licences? The intention is that the licences will be renewable, and the word "renewable" is put in there. We got that message loud and clear during public hearings, and it's not the intention of doing otherwise than having them renewable. Currently, under the FMA evergreen policy, the intent is there, and for any new FMA terms negotiated by way of the Carman exercise the message will be given that it's intended to be renewable.

Mr Hodgson: As the parliamentary assistant mentioned, there was a great deal of concern as we travelled for the hearings. We heard from numerous parties who were concerned about the tenure. I just have a few questions of clarification.

I'm assuming that inserting the word "renewable" is addressing the whole issue of tenure. I'm not a lawyer to know whether or not that'll make those people feel comfortable with this section of the act. But in the parliamentary assistant's opinion and the government's opinion, is the crown's legal obligation regarding tenure, with the legal agreements between two parties, going to be the same under this new act as it has been under the

Crown Timber Act? Are the legal obligations of the crown going to be the same as they were before this act was in, before the crown entered into an agreement between two parties for the right to use a resource, to harvest a resource? Are those legal obligations of the crown still the same respecting the tenure of the licence holder?

Mr Wood: In terms of the FMA agreements, some of them are in place and some of them have been converted over through the negotiation process of what we call the Bob Carman exercise. It is still continuing the negotiation process, and I know for a fact that they are dealing with tenure and they're dealing with security that comes along with tenure in creating jobs, protecting jobs and what they can do to help those communities. Yes, those negotiations are taking place.

As I said, right now the calls coming in have to line up the way I do when I go to get an airline ticket at Pearson airport—I've got to pick a number and wait in line—because the negotiations are moving along. They're dealing with tenure and—

Mr Hodgson: But with regard to tenure on an FMA, let's say, the evergreen clause will be continued because of this word "renewable," the obligations of the crown with regard to their tenure?

Mr Wood: The intention is that you're not going to take it away from them.

Mr Hodgson: So you can't unilaterally take it away from them. Is that right?

Mr Wood: That's the intention.

Mr Hodgson: Okay. To follow up on that, under this new act will it be legal for a company to make an announcement on somebody else's renewable licence holdings? I'll just use a hypothetical example. If a company were to make an announcement of a new plant and new jobs using the timber supply off somebody else's limits, without negotiating with that licence holder, under this new act would they be able to make that announcement before they had the negotiations complete? Hypothetically. I'm not referring to going back into the Fort Frances situation.

Mr Wood: I'm not a lawyer or a legal person of that nature, but in my experience involved in the pulp and paper industry and the forest for the last 30 or 35 years, the negotiation process for the use of trees and wood and whatever is ongoing basically on a continuous basis in terms of who can make the best use of the wood that's out there to create jobs, protect jobs and secure the area.

As far as announcements are concerned, I would expect that the announcements would be made jointly. It's not everywhere where negotiations break down and we lose the right to be able to watch baseball on TV and things of this kind. Some places are successful in negotiations.

Mr Hodgson: That's right. So it wouldn't be legal for a surplus to be declared on somebody else's limits without their agreement to use that timber, by another company that doesn't hold the license to it, without a negotiation?

Mr Wood: Negotiations and dialogue, and then the

eventual mediation and whatever.

Mr Hodgson: Would it have to be complete before the announcement was made under this new act?

Mr Wood: I don't particularly know what incident you're talking about.

Mr Hodgson: A hypothetical situation.

Mr Sean G. Conway (Renfrew North): Mr Chair, can I just ask a supplementary? I don't think there's anything hypothetical about this at all. There'll be people who look at this bill and say, "A new day." The member from Victoria's being very polite. I can be a lot less polite and say that for the last 125 years various departments, of Crown Lands and Natural Resources and Lands and Forests, have been, usually with the best of intentions, committing stuff they didn't have to give, overcommitting it, double-committing it, just one screw-up after another, usually with the best of intentions: Nobody wanted to convey the hard news. I'm just assuming that in this joyful new world that's not going to happen, because there's a powerful legacy of that in Ontario.

Mr Wood: I haven't heard of it happening in the last four years.

Mr Hodgson: Mr Chairman, did I get an answer to that question? Mr Conway summed it up in a less polite fashion.

The Vice-Chair: Mr Brown is next on the list. If you want to speak again you can come back to it.

Mr Wood: I thought I'd given you an answer. We're not talking about some phantom situations out there. We're talking about reality—

Mr Hodgson: Yes, a real situation.

The Vice-Chair: Sorry, Mr Hodgson. Mr Brown is next.

Mr Brown: We obviously are in support of the government's motion in this case. We did hear a great amount of verbiage and very strong concern about the tenure issue. Certainly, all holders of long-term licences or evergreen licences or agreements with the government expressed a concern that they may have made capital investments in vain, may have spent a great deal of forestry money only for someone else to come in and take their licence. I think adding this word will give at least some small degree of comfort to those people who have been on the evergreen licences and the communities that rely on the mills that are located depending on this wood source.

Having said that, we have been concerned from the beginning that the former Crown Timber Act defined the word "licence" but there is no such definition within this act, that I'm aware of. There is some concern that a licence is different from an agreement and that an agreement is not one that can be unilaterally cancelled as easily, perhaps, as a licence.

I don't know whether this is a valid concern or not, but the argument has been given to me on a number of occasions that licences and agreements may not be the same thing, that you may not be able to go to Queen's Bench and appeal the fact that someone has taken the

licence away because it was the minister's prerogative to give it or not give it, but if you have a binding agreement with the province of Ontario and you were treated in an unsatisfactory way in your view, you could take legal action in court.

I don't know whether that's a valid concern or not, but certainly that has been expressed to me by a variety of people in the industry who believe that the word "licence" rather than "agreement" may in fact reduce tenure, and that is not what they're interested in. Would you see the licence and the agreement as the same, and why have you not chosen, as the Crown Timber Act does, to define the word "licence"?

1140

Mr Wood: Before a lot of discussion was involved and before the negotiations with Bob Carman, I think there might have been some concern out there, but I don't believe the concern is there right now. What we're talking about is a transition period and converting over, and I believe the people who were raising the concerns understand now that an agreement and a licence is the same thing.

I guess we could interpret what the word "agreement" means, interpret what the word "licence" means. I have an agreement with the Ministry of Transportation that it will give me a licence to drive.

Mr Brown: And you make a large capital investment in a vehicle so you can do that, I'm sure.

I would have a far higher degree of comfort, and I'm certain many other people would, if you would choose to provide the committee with a definition of "renewable licence" in the act itself.

Mr Wood: It is defined.

Mr Brown: It is? Where?

Mr Wood: Under the definitions.

The Vice-Chair: While you look that up, Mr Brown, perhaps Mr Carr could take the floor.

Mr Carr: My question is a follow-up to what Chris was talking about, in a case like that. The parliamentary assistant said that between two parties there could be a lot of negotiations, and I think he used the word "mediation." At the end of the day, is it the government's intention to make a final arbitrated settlement? Can they basically dictate and say, "This is what's going to happen"? In the case Chris mentioned, is that what we're going to see probably happen?

Mr Wood: In the event that there is no agreement—

Mr Carr: The government will impose one?

Mr Wood: —mediation will take place to try to come to some kind of agreement.

Mr Carr: And that would include, I take it, financial compensation as well?

Mr Wood: I'm sure they're going to be talking about the whole situation of that. We have situations all over Ontario that are different.

Mr Carr: At what point would the government step in and impose a settlement? I take it that it would be when they've reached the point where both parties say, "We can't get an agreement," that the government would

then impose one probably at that point? They wouldn't do it until they knew that both parties had said, "We can't go any farther."

Mr Wood: There are some situations where one community can actually be shut down because there can be no agreement reached on a third-party agreement. If that agreement were reached it would not affect the supply or the tenure for the other community for 100 years or 200 years or 300 years, but just because there is no agreement one community has to say, "We have to shut down and bulldoze our whole operation and basically move a town." We're saying that mediation is probably a better solution to that to work it out.

Mr Carr: But in any settlement, there would be financial compensation to that party, notwithstanding the fact—you're saying there would be financial compensation?

Mr Wood: I'm not sure what the end result of the agreement would be. When I start collective bargaining, I don't know what the end result is going to be.

Mr Conway: Those are really vital questions that I think need to be understood. I haven't been part of this process, but I do know that the question, as has been indicated, of tenure is absolutely critical. I think people understand out there today that it's not going to be like it was 25 or 50 years ago, although it is interesting, for example, to talk to licensees who went through the Algonquin Forestry Authority Act of 1972—in retrospect, I think good public policy. But I'm going to tell you, people's sense of tenure at that time—what they had and what they got were not necessarily one and the same thing.

I just look at the amendment, I look at the sections, and if you read 23 together with 31 and 35, if I'm sitting there in Smooth Rock Falls or in Bancroft, Ontario, and I'm going to make an investment, boy, I'll tell you, I still think I'm open to some pretty considerable discretion.

Mr Wood: I know that some people haven't followed the committee all around over the last month, but the concern was that if we didn't have the word "renewable" in there, there might be the intention to cancel licences or not renew them. Our intention is to submit the "renewable" in there so there's no misunderstanding and no concern for the people who came in front of the committee and made presentations. We're responding to their requests to bring forward amendment. I'm sure most of them are going to be quite pleased with the word.

Mr Conway: So it's the view of the government and the department that the amendment will strengthen section 23 in a way to give a higher level of comfort to people out there who clearly are concerned about the tenure question.

Mr Wood: Yes. The concern was: "We're not worried about this government, but what if we get another, terrible government in there? We've got to have some protection in the legislation."

Mr Conway: This government's been at work in my area doing some things that I don't think are all that—I mean, they're tough. You mentioned Braeside. I think the Braeside decision was a good decision, quite frankly.

Your minister made a decision around Algonquin park that was significant and had an impact on the tenure question.

I'm listening to the rhetoric and I'm looking at the language and I know the culture in the department. I guess I'll just have to wait and see.

The Vice-Chair: Have we waited long enough for the vote?

All those in favour of Mr Wood's amendment? Opposed? Carried.

Mr Brown: I move that subsection 23(1) of the bill be amended by striking out "the crown forest" in the second-last line and substituting "those forest resources licensed".

The Vice-Chair: Did you want to comment?

Mr Brown: As soon as I figure it out, I will. We are again concerned, and repeat the concern, that a licensee without the means nor necessarily the expertise is being asked to manage the forest rather than the resources of the forest, which I think the parliamentary assistant agrees are two different things.

We maintain, as we have maintained over the period of this bill, that this is a timber bill and no dressing it up changes that. This is just a further part of our effort to make it clear that that's how we see this bill. We don't see any problem with seeing this bill as a timber bill. I think the government might be proud to call it a timber bill, but the government shouldn't be very proud to call this a sustainable forestry bill.

That is the essence. We think licensees have a responsibility to manage directly for the resources they are licensed for and to take those other values into consideration, but we don't believe government does not have a role in ensuring that the other values are taken into account. That's as carefully as I can make that argument, which I've made umpteen times before.

We are concerned that there's no "sustainable yield" section in this bill. We are trying very hard to make sure that the government understands that somewhere down the road there has to be timber there. We're not very convinced, given the greatly diminished regeneration and silviculture budget of this government, which has placed huge demands on the industry in terms of dollars, in terms of process, in terms of contribution now to the provincial treasury directly through the residual value tax—

Mr Wood: You should have listened to Preston Manning going after Chrétien this morning, talking about spending.

The Vice-Chair: Mr Brown has the floor.

Mr Brown: We are concerned that this is just not possible in the real world.

1150

Mr Wood: Up front, we're not prepared to accept the amendment. We do not want to go back to the old timber act and deal with timber as timber only. We would like to deal with the sustainability of the crown forests and not just with the one species we feel this amendment would address; it would be addressing only the trees that

are licensed for harvesting. We want to do the whole crown forestry, so we'll be voting against this amendment.

Mr Brown: No. What you want is for a private company to become responsible for the sustaining of the forest in and of itself, managing for values that it may or may not have any expertise in. That's what you want. It is just not very likely that that's to happen in a significant way. What you want is the ministry to withdraw from this process in a huge way, turn it over to the private sector, charge the private sector more money for doing what it's doing already, through increased stumpage, increased area charges, a residual value tax.

Let's be clear. You are increasing the costs to people by about \$100 million in 1994-95, and we are going to get less regeneration and less silviculture. Those are your own numbers. Those aren't my numbers, they're the ministry's numbers. I don't understand how anybody can claim that an increase in charges but a decrease in actual activity in the forest is sustainable. But I'm sure we'll disagree about this for, virtually, ever.

Mr Wood: The only comment I would make is that the budget called for, I believe, \$189.1 million over 1993-94 to be spent on renewing the forests out there; along those lines, we're saying the job is being done. We're not going to accept this particular amendment, for the reasons I've given earlier.

Mr Brown: Let me just help you. We start with silviculture achievements. These are the government numbers generated by yourself: silviculture achievements and silviculture expenditures. I don't know whether you have this, but it was circulated, I believe, to all members. If we use the total amount of money spent on silviculture starting in 1984-85, \$73.8 million was spent. Then it was \$92.6 in 1985-86, in 1986-87 it was \$103.4 million, in 1987-88 it was \$108.9 million, in 1988-89 it was \$113.8 million. In 1989-90, the last full year of the former government, it was \$118.5 million. Then it was \$122.4 million in 1990-91, six months of you guys. Then it started to decrease: in 1991-92 it was \$119.6 million, in 1992-93 it was \$97.4 million, and in 1994-95 the expenditure, which will now be financed out of your renewal funds, totally out of stumpage fees, is \$109.6 million. At the same time, in terms of stumpage and area charges we have gone from charging \$59 million in 1984-85 and will be charging \$104 million in 1993-94.

This is sustainable? You picked one of the lowest numbers in silviculture practice and regeneration in recent years and chose to sustain that lower number and at the same time increased the charges to the industry, the people I represent and the people Mr Conway represents and the people with communities in the crown forest represent, increased the charges to them by a huge amount of money while withdrawing government support for that. And that's going to be sustainable in the long term, you believe. I have great difficulty with that.

The Vice-Chair: Are we ready to vote? All those in favour of Mr Brown's amendment to subsection 23(1)?

Mr Brown: Recorded.

The Vice-Chair: A recorded vote.

Ayes

Brown, Carr, Conway, Hodgson, Morin.

The Vice-Chair: All those opposed?

Nays

Duignan, Ferguson, Hope, MacKinnon, Mammoliti, Wood.

The Vice-Chair: This amendment is lost.

The Conservatives have an amendment as well?

Mr Hodgson: Yes. I believe it's an amendment so reasonable that we can probably get it passed before lunch.

The Vice-Chair: Another one of those friendly amendments?

Mr Hodgson: It's a friendly amendment that is strictly in keeping with the rhetoric of selling this act to the public. The only change I've got from the present wording is that in the current section it specifies what activities are necessary to provide for sustainability, and that's renewal and maintenance, and I think that's got a bias towards just a timber component. I'll read in my amendment at this time.

I move that subsection 23(1) of the bill be struck out and the following substituted:

"Sustainable forest licences

"(1) The minister may, with the approval of the Lieutenant Governor in Council, grant a licence to harvest forest resources in a management unit that requires the licensee to carry out activities necessary to provide for the sustainability of those forest resources licensed in the area covered by the licence."

I'd like to point out why this is such a friendly amendment and why it's consistent with everything else in this act. It doesn't limit the activities necessary for sustainability to just renewal and maintenance, and it doesn't limit the role of third-party licensees for different resources on one area of land. It calls for the licensee, no matter what the resource he's licensed for, to carry out all the activities necessary to provide for sustainability.

I believe the way it's written right now could be interpreted by some as just a continuation of the old concept that the forest ecosystem consists of only trees. This is a recognition that there are more resources than just trees, and that this act is progressive and is going to take into account the whole forest ecosystem in regard to sustainability. Therefore, I feel it's a very friendly motion and hopefully before lunch we can make that so it'll stand up for future generations so they can all enjoy the forests.

The Vice-Chair: I don't think we'll be able to decide that before lunch, but I'm sure we'll find out at 2 o'clock whether or not it is a friendly amendment. I would like to remind the members that when we come back at 2 o'clock we'll have three hours left. We're at section 23 and there are 86 sections in the bill.

The committee recessed from 1159 to 1405.

The Vice-Chair: Everybody is almost on time. That's nice to see. This committee will continue its clause-by-clause consideration of Bill 171, and as we left this

morning, we were trying to establish whether Mr Hodgson's amendment was a friendly amendment. Any further comment?

Mr Wood: I think he was looking for an answer, and we're saying that the amendment brought forward by the PC caucus is not acceptable.

The Vice-Chair: So it's not so friendly. Mr Brown wants to speak on it.

Mr Brown: Over lunch, I've forgotten the reasons Mr Hodgson proposed this amendment, so maybe he could remind us.

Mr Hodgson: Do you want me to go ahead, Mr Chair?

The Vice-Chair: Briefly, if you can.

Mr Hodgson: It might be hard to do—this is a very complicated subject—but I'll endeavour to do it.

Under the present wording of the act, it specifies what activities are required to provide for sustainability, and it mentions renewal and maintenance; I think that's in reference to the timber component of the forests. My amendment leaves it open that they have to carry out activities necessary to provide for the sustainability, and it doesn't limit it just to renewal and maintenance. It's consistent with what the government wanted.

The Vice-Chair: Is that clear now, Mr Brown?

Mr Brown: It is. I now recall what intervention I wished to make. I think that is an important consideration to put forward. As we discussed this bill during the hearings, as you recall, on many occasions I raised the concern about what ecosystem we wanted to maintain in the forest, and whether when we were doing regeneration activities or silvicultural activities we were attempting just to replicate what had been harvested or, as Mr Hodgson puts it in this amendment, actually achieve some sustainability of the resource.

In some cases, that will not be simply replicating the forest that has been harvested. In many cases, that forest will have been harvested once before and the regeneration activities on it may not have been what they should have been, and we may in fact wish to improve the forest—maybe "improve" is the wrong word—bring the forest back to what it would've been if the second cut had not been. I think Mr Hodgson's amendment, while not perfect, moves us along that route, and therefore we will be supporting it.

Mr Wood: Whether it's the first cut, second cut or third cut, we're not even sure what was there 5,000 years ago. With that, we're not supporting the Conservative motion.

Mr Brown: The parliamentary assistant's comment is well taken. We understand that we may not know what was there 5,000 years ago, but there has to be some consideration of what we want to be in that forest not only in the immediate future but for the future, depending on the species, from 50 to 100 years from now. That is what Mr Hodgson is trying to suggest to the parliamentary assistant, and that may be different from what was actually harvested in the area immediately.

We've been asking for the government to come

forward with some suggestions of how it was going to make those silvicultural decisions about what kind of forest needs to be generated there. So far, those haven't been forthcoming, but Mr Hodgson is making a valiant attempt to move the government in that direction.

The Vice-Chair: Are we ready for the vote? All those in favour of Mr Hodgson's motion?

Mr Brown: Recorded vote.

The Vice-Chair: Recorded vote.

Ayes

Brown, Carr, Hodgson, Morin.

The Vice-Chair: All those opposed?

Nays

Ferguson, Hope, Jamison, Mammoliti, MacKinnon, Wood.

The Vice-Chair: The amendment is lost.

Section 23: Are there any further comments, questions? Ready for the vote? All those in favour of section 23 as amended. Opposed? Carried.

Section 24: Are there any questions, comments?

Mr Brown: This is the section that permits what is now known as DCLers, for example, Mr Wood? That's what this is about, the smaller, generally relatively short-term experience, so it's not a sustainable forestry licence or whatever jargon you use for that? This is the small, independent fellow who's out there trying to make a living in the forests of Ontario? I notice that you do have the five-year limitation on these kind of licences. Why do you require that here, where you didn't in the section before?

Mr Wood: There was need for flexibility in the other area, and there is not the same need for flexibility under this particular section where you're talking about other licences.

Mr Brown: This one requires more flexibility than the other one, is what you're telling me, and therefore you're going to restrict its term but you don't restrict the one that needs less flexibility.

The concern here is a concern we've had for a long time with regard to these licences, and that is how the regeneration, renewal and maintenance activities actually occur here. There has been a great deal of discussion, particularly by the small independents, about how they will in fact be able to do that. Subsection (3) provides for the ministry to enter into agreements with the licensee but doesn't require that. I'm just wondering how the government envisions those agreements to work.

Mr Wood: In fairness, Mr Chair, there is no amendment brought forward to this section by any of the three caucuses.

Mr Brown: Mr Chair, it is traditional that we get some explanation of why a clause is in the bill, or rather, isn't. We have the opportunity to vote for or against any clause in the bill and traditionally people want to make some kind of argument for having it, otherwise one would presume they don't need it.

This is a critical issue. We heard from one end of the north to the other and down into Renfrew and Victoria

and Haliburton counties people who were—I think in Thunder Bay one presenter claimed this particular bill would put him out of business. All we're trying to determine is how these renewal agreements, which were a cause of great concern to these small independents, would work, to be able to assure them that they are not going to be put out of business because they don't have the expertise to make the plans or to carry out the silvicultural activities etc.

So I take it we're not going to get responses to questions about sections?

The Vice-Chair: Unless I hear any.

Mr Brown: I wasn't really asking you, Mr Chair. I was kind of hoping the government might want to defend its own legislation or at least explain it.

The Vice-Chair: I don't hear any answers, so—

Mr Brown: I don't either.

The Vice-Chair: Are we ready to vote on section 24?

Mr Brown: If we don't get answers, we'll probably be needing 20 minutes to think about it and go consult with other people.

The Vice-Chair: I don't hear any answers. Are we ready to vote?

Mr Brown: We'll probably have to talk about it for 20 minutes.

The Vice-Chair: Probably?

Mr Brown: We'll ask for 20 minutes.

The Vice-Chair: You're asking for 20 minutes. Okay. *The committee recessed from 1416 to 1436.*

The Vice-Chair: We're now ready to vote on section 24. All those in favour of section 24? All those opposed? Carried.

Section 25: Any comments, questions? If not, all those in favour of section 25? Opposed? Carried.

Section 26: I understand Mr Hodgson has an amendment.

Mr Hodgson: I move that the bill be amended by striking out subsection 26(1) and substituting the following:

"Harvesting limit

"(1) A forest resource licence that authorizes the harvesting of forest resources is subject to the condition that the forest resources shall be harvested from the area described as available for harvesting in the applicable forest management plan."

I feel this would be an improvement on the present act. The difference is that the present act states the amount to be harvested and what I'm talking about is the area. Just as an example, if you issue a resource licence that authorizes the harvesting of an amount and the estimate on the volume in that area is out—I understand that in some instances we do it on a 20-year inventory and sometimes there's a huge margin of error on the estimates.

The prescriptions for the forest management plan should relate to the area, not to the volume taken. You could take the volume in a very small area if the guess is out, so it should be a condition that the forest manage-

ment plan should relate to the whole area under licence. Is that clear?

The Vice-Chair: Clear enough to me. Any reaction or any comments?

Mr Wood: Briefly, our feeling is that this amendment is not acceptable because the proposed motion would not support the changes in licensing that are species-specific and where more than one licence occurs on the same area.

Mr Brown: I have a concern; maybe Mr Hodgson could help me and maybe the parliamentary assistant also. I understand what Mr Hodgson's saying in that the estimates are not exactly always what they should be and given the particular terrain etc it may not make sense not to finish a harvest. On the other hand, the flip side of that is that the timber harvest could have been underestimated; in other words, if you only describe area, maybe there isn't that much timber on it, and then you would be restricted from moving to have the volume you need to operate the mill the way you may have wished. I don't know if that's a legitimate concern, but it may imperil the livelihoods of some mill workers if that is the case.

Mr Hodgson: I've thought about Mr Brown's concerns. Right now, if you get a licence based on the volume and it's not there, you're out of luck, as I understand it. If you want to go to another area, you have to get another licence. The calculation of the maximum allowable depletion should be based on the area control rather than the volume control. The volume control does not provide incentive for good utilization of the timber and does not provide incentive to maximize production on an onsite through intensive forestry practices. This is a concern we heard quite a bit at the public hearings, especially from the Ontario Lumber Manufacturers' Association.

I think it would be an improvement. I don't think it takes away from third-party licences or from licences for allocation of different species, and I think it would provide an incentive for good utilization of the timber. I don't know how much more I can talk on that. It seems to be fairly self-evident to myself and to others in the industry.

Mr Brown: I agree with the concern that's being raised. Again maybe we need some help from the parliamentary assistant on this, but it's my understanding that you can get amendments to your licence to suit that specific situation if it does occur, but more than that, that most licences usually have a plus or minus in them of a certain amount; for example, you can harvest 10% more or 10% less than the volume that is designated to take into account that exact problem. I wonder if that is being considered.

I think this is a good attempt to solve a very real problem. I'm just a little concerned about whether it is the proper mechanism, and would like some assurance from the parliamentary assistant that this kind of situation can be resolved.

Mr Wood: In a particular area, we have to make sure we're consistent with the area and the volume available or we don't have sustainability in accordance with the

timber management plan or TMP. I hope that clarifies it a little bit.

Mr Brown: The way the section reads without being amended, it says you won't exceed the amount but there would be some variability to the amount; you wouldn't be absolutely precise in the amount but there would be some variance because, goodness knows, the forest varies. I understand that's the present system and that the present licensing generally does have some variance, to take into account that you can't go into a particular area and harvest all but 10% of it, because now you've hit your volume limit and that means that next year you'd now have to go up a road for 50 miles to harvest one very small, little bit of timber. That would not make sense in terms of sustainability and it wouldn't make economic sense, in any event.

But I'm wondering if there would also be some problem with just defining area that we maybe don't foresee. The real question then is, what variance can you get to your volume limits, and will the ministry take this into account when it's doing the planning process?

Mr Wood: The margin note for this section says "Harvesting limit." The intention is that we make sure there's a sustainability of resources there and that we're not going to be able to go way over. We had technical briefings at the beginning in Sault Ste Marie and I believe this is the explanation that was given at that time as well.

Mr Hodgson: As long as there's an assurance that if the estimate is totally out of whack and you reach your volume, but the plan for sustainability for that whole area calls for the culling of certain trees, for example, that can be taken into account; if you're confident, along with the staff, that good forestry practices—that there's an incentive we've built into it to make sure you do what's set out in the plans if the volumes are totally out of whack.

Mr Brown: I think we who are from the area recognize the fact that the knowledge of the forest isn't quite similar to going down to Bay Street and being able to enumerate the buildings. Forests do vary from place to place and most of our information is average-based; by doing small samples we assume that an area will contain a certain amount of timber etc.

We want to know that we will have both good sustainability practices in terms of culling, for example, as Mr Hodgson says, or to regenerate a unit in an economic way, which wouldn't mean leaving 5% or 10% of the timber standing, just because it would never be economic to go back in and get it.

All we're asking is that there are mechanisms within the bill to take those kinds of variances into account in terms of sustainability, and that it can be done in an expeditious manner; people don't want to wait for six months for the ministry to approve the change in plan.

Mr Wood: The answer is yes.

The Vice-Chair: Ready to vote? We're voting on Mr Hodgson's amendment. All those in favour of Mr Hodgson's amendment? All those opposed? The amendment is defeated.

Mr Brown, you have an amendment.

Mr Brown: I move that subsection 26(2) of the bill be struck out.

This amendment is really being placed just so we can have this discussion and try to understand the rationale for exempting areas less than 25 hectares. Presumably, those areas would be within a forest management plan of somebody. Would that not be the case?

Mr Wood: Yes, probably. The section we're dealing with is a small exemption for 25 hectares or less, for licences up to a year. Fuel woods, poles, timber for mines, things of this kind—I guess you've been following the press clippings that have come through. We have one in northeastern Ontario, and his argument is, "I planted the first tree in the reforestation of northern Ontario and now I'm having a hard time getting timber to put into a mine." We think this will address that concern, and we're not going to be accept the suggestion that it be deleted.

1450

Mr Brown: I didn't really expect you would. I was really just trying to understand this section, in that I would have thought it would be probable, at least, that the area would have been within a forest management plan.

Mr Wood: Fifty percent of the crown forests are under FMAs, roughly that.

Mr Brown: But the crown units that are licensed would be under a forest management plan under this bill.

Mr Wood: We have to go back to the technical briefing again. I'm just trying to jog my memory on the explanations they gave in that briefing. There are far north and far south areas that are outside of management units.

Mr Brown: But in the normal course of events, in probably 90% of the areas we're discussing by this, there would be a forest management plan there anyway because under this bill the ministry probably would have been the one that drew it up, I would presume, because it would probably be a number of small DCLers, or whatever we call them under this act, and crown unit management, not FMAs. The ministry probably would have had to provide the plan for that management unit in any event, even though the allocation on that 25 hectares didn't go to a particular place and you're giving that to somebody for a year or whatever.

My concern here is that if you get a number of these in a row, it is conceivable that you don't have any kind of regeneration plan. I don't have a big problem with exempting 50 acres or 60 acres or whatever that is, but it seems to me that if you have quite a number of those that are continuous, you could have a problem and it could have been very feasible to have a forest management plan.

Mr Wood: I've heard your argument, but—

Mr Brown: It doesn't cut any ice.

Mr Wood: Your argument is not the case. We're talking about exemptions rather than that this is the way we're going to plan Ontario.

The Vice-Chair: Any further debate on section 26? We'll move to the vote on the amendment by Mr Brown.

All those in favour of Mr Brown's amendment? Opposed? Lost.

Any further comments on section 26? All those in favour of section 26? Opposed? Carried.

Mr Wood: I move that the French version of subsection 27(4) of the bill be amended by striking out "du bois d'oeuvre" in the third line and substituting "d'arbres en bois d'oeuvre."

Sorry about my pronunciation. I think it's self-explanatory. Maybe the Chair wants to repeat it so we have it correct for Hansard.

The Vice-Chair: Does anybody want to debate this?

Mr Hodgson: I'm not sure I caught the significance of that. Can you explain that, Mr Wood?

Mr Wood: This is a technical change that has been brought forward by the translators and we felt it was important that it be corrected at this time.

Mr Hodgson: I'll have to defer to that expert opinion.

The Vice-Chair: We're ready to vote? All those in favour of the amendment? Opposed? Carried.

Section 27: All those in favour of the amended section 27?

Mr Brown: Mr Chair—

The Vice-Chair: I'm sorry. Do you want to talk about section 27?

Mr Brown: Normally the Chair would ask if there's any discussion.

The Vice-Chair: Okay. Is there any discussion?

Mr Brown: This section really requires our trees to be manufactured in Canada, but that we can export for fuel, building and other purposes. I don't understand the "building" part of it. What will we be exporting a log for building for, if it wasn't to be made into lumber? A log cabin, perhaps? Is that what we're talking about?

Mr Wood: I don't recall the exact explanation our technical people gave in Sault Ste Marie. The explanation was there in Sault Ste Marie when they covered it, and I'm sure we could dig back into Hansard and resurface that explanation given during the technical briefing.

Mr Brown: Frankly, I don't recall it being made, and I don't have a copy of Hansard with me. Chris, do you remember?

Mr Hodgson: Yes, I believe log manufacturers that assemble homes.

Mr Brown: So it is for the log home, but they are manufactured when they leave.

Mr Hodgson: No, they're just cut out in the forest. You can have a roundlog home.

Mr Brown: All right, I understand now.

The Vice-Chair: Are there any further questions?

All those in favour of section 27, as amended? Opposed? Carried.

Section 28: Mr Hodgson, you have an amendment.

Mr Hodgson: I wish to withdraw this motion. My understanding is that it's covered—

The Vice-Chair: We don't need any discussion if there's no amendment.

Mr Wood: I move that section 28 of the bill be amended by adding the following subsection:

"Effective date

"(2) A determination under subsection (1) may be made to apply retroactively to April 1 or any later date in the year in which the determination is made."

What we want to do is try to have a common date, reduce some of the confusion for licences. It'll allow the stumpage system to respond to market conditions, that prices for forest products are fair and equitable, and these provisions are similar to those used in the Crown Timber Act right now.

Mr Brown: I know members, by reading it, would be quite surprised, but this is really about the residual value fee. This is the residual value tax. It's never mentioned anywhere.

Mr Conway: Say it again, and say it slowly.

Mr Brown: Residual value tax.

Mr Conway: The Reaganites used to call those things revenue enhancers.

Mr Brown: These people call them fees.

Mr Conway: It's pretty unvarnished. The Liberals used to call them taxes and we were vilified for it.

The Vice-Chair: Mr Brown, are you finished?

Mr Brown: No, I was a little—

The Vice-Chair: Sidetracked.

Mr Brown: Sidetracked would be a good word.

1500

Members should look at page 3 of the responses I have received from the ministry in regard to this innocuous section, at least as it's written, regarding residual value tax. In 1995, the pulp sector is expected to pay only \$82,000—"only," I say, but that sounds like a lot of money; the veneer sector \$2,670,000; the sawmill sector \$56,418,000; the OSB sector \$4,159,000; the paper sector \$2,812. I presume these are based on the fact that the market stays at about the level it is.

That is an extraordinary amount of money, and our view is that if the government is happy to be collecting that, the government should be prepared to put it back into forestry. We believe this money should be dedicated to the forests of Ontario through the renewal fund and through the futures trust section and dedicated to that. The reason, as we all know, is that Ontario's forests certainly could stand a little sprucing up, so to speak.

Mr Conway: I could use pine, actually.

Mr Brown: Pining up; all right. There is a lot of remedial work that could be done in our forests, and the renewal fund and the futures fund could both well spend this money. It would be a help to the northern economy and it would be a help to all forestry communities to have significantly greater revenues being spent in them or spent on them; it would provide a great deal of work. In the futures fund aspect, I will be placing an amendment later on that would permit the futures fund to spend some money assisting in research on forestry, as has been suggested by people like Lakehead University, that this would provide a funding base for them.

The problem is that this section is written in such a way that we can't figure out how to make that amendment. We are almost fearful of making that amendment because it may seem that we are therefore in favour of this residual value tax, which we are not.

But that's the problem, and I wonder if the parliamentary assistant or someone could help us in terms of how we might dedicate this fund to trusts that really do need extensive funding. As I pointed out, silviculture funding in this province will be down \$20 million or \$30 million below its peak years. We would hope that the ministry could augment that through this fund.

We think it's reasonable. It's coming from the forests of Ontario. The government is already collecting at this point, according to its schedule, I think a dollar a cunit for administration, going, over five years, to \$2 a cunit for its own administrative purposes. I think that's probably legitimate, for the ministry to be collecting money for its administration, but this is no more than a tax that flows to Queen's Park and will never been seen in the forests of Ontario again. It will be taken out of the northern economy and placed in the southern economy.

Mr George Mammoliti (Yorkview): What do you mean, that money won't be seen in the community again?

Mr Noel Duignan (Halton North): Just like the tire tax.

Mr Brown: That wasn't a good idea either.

Mr Conway: I beg your pardon. I can defend the tire tax.

The Vice-Chair: Mr Wood has the floor.

Mr Wood: Mr Brown is making an argument on section 28, but the motion I made that we're talking about is a date in addition to section 28, which would be subsection 28(2). We're talking about "A determination under subsection (1) may be made to apply retroactively to April 1 or any later date in the year in which the determination is made." This is the motion I made that I want to debate and then vote on.

Mr Mammoliti: I just would like to ask Mr Brown how many Jobs Ontario grants he's gotten in his community over the last four years. Any at all?

The Vice-Chair: Your question does have to have a link with section 28. If your question makes some sort of link with section 28, perhaps I could accept it.

Mr Hodgson: I hate to interrupt a discussion between the Liberals and NDP about how to tax the people of Ontario more, or who taxed them more or who is going to do less. This is quite consistent—a retroactive tax grab—with other ministries in the present government.

The Vice-Chair: If we could stay on section 28.

Mr Hodgson: Section 28(2) deals specifically with the current practices in other ministries of making tax grabs retroactive. I just wanted to help the parliamentary assistant with that clarification.

The Vice-Chair: Are you ready to vote?

Mr Brown: No. I'm just coming back to the fact that I would find it rather difficult, if I were in Mr Wood's position, to be defending a government that is out there claiming this is a crown forest sustainability bill when it

is actually projecting to spend less money on silviculture. The only thing they're planning to spend more money on, to be clear, is administration, and that should, in this day and age, make someone think a little bit.

As you look at the fees they've generated, they are considerable. In 1990 the province was receiving in total, between area fees and stumpage charges, \$85 million, and in 1993-94 they're expecting almost \$105 million, an increase of \$30 million in two years—absolutely astounding. The Treasurer should be very happy with the minister for being able to pull that kind of money out of an economy.

Our concern here is that there's no limit. This is an absolutely open-ended, retroactive charge, with no accountability to the Legislature, period—zero. The minister may just decide at any point that he may and change it. Recent events would make anybody in that business quite nervous about any government, not just yours, having that kind of power without legislative review.

Mr Wood: As I said before, the amendment we're talking about is that it would be retroactive to April 1 or to a later date in the year in which the determination is made. That gives some flexibility to the minister to say, "Based on the prices that are out there, it could be retroactive to April 1 or it could be to a later date in the year in which the determination is made." We're talking about dates.

Mr Conway: Again I apologize because I have not, like my learned friend from Algoma or others like the member from Victoria, been following this all the way through. But this is a very interesting section, and it touches on two major policy questions, as I see it.

One of them has been a big part of the softwood lumber debate over the past—what?—six, seven years, where our American friends said that Canadian provinces have essentially been subsidizing resources by virtue of undervaluing the price at which they're put on the market. I think that's essentially the way in which that argument has been advanced.

Second, I've heard from a number of people in the province over the years that the old mechanism by which crown timber was sold was a very imprecise one because, as I indicated in here the other day, it essentially put bologna and filet mignon on the market at comparable prices, or so it was argued.

My question to the minister or perhaps any of the staff is that I run the Acme Lumber Co in Four Corners, Ontario, and I have a licence—I might have a DCL or I might have an old licence—and can somebody just explain to me in a sort of Dick and Jane way how, by virtue of the application of section 28, this new order, broadly speaking, will differ from the old order? I think I know the answer, but I'd like to get sort of a summary of—it's not a question that I necessarily expect the parliamentary assistant to answer, but maybe somebody from the staff. I have a feeling that members in constituencies where there are crown timber resources to be marketed are going to have to know the answer to this question soon.

1510

Mr Wood: As I had said earlier, we had a day of technical briefings explaining everything section by section in Sault Ste Marie, and the answers to your questions are probably in Hansard.

Mr Conway: And I understand that.

Mr Wood: I don't have a copy here, but it's available to you. What my motion is referring to is what the dates should be. We're saying we would like to have it as close as possible to April 1, either on a retroactive basis or a later date in the year in which a determination is made. We're talking about a date—

Mr Conway: No, I understand that. I'm really speaking to the main—

Mr Wood: As to the other part, I'm sure you can get your answers in Hansard because it was explained in Sault Ste Marie.

Mr Conway: But I'm a member of the Legislature, I'm here today and I have the section in front of me, and I think it is only reasonable that—and Mr Cleary, I know, is here.

Mr Brown: I found that it wasn't earlier on.

Mr Conway: This is a very major question. A big part of this whole fight over the last seven or eight years has been, "You're giving it away, you're undervaluing it," and some of my friends on the left would probably maybe even have agreed with that previously. And there's another argument, which is the one I advanced, that the old mechanism was imprecise in its ability to calibrate the different values. I want to be clear as to how this is now going to work, broadly speaking. I'm serious. I expect to have some people on my doorstep soon asking for an answer, so it's sort of like a bit of self-preservation here.

Mr Wood: The whole intention of the negotiations that are going on right now with the better business relationship, the whole of Bill 171, the Crown Forest Sustainability Act, and the whole concept that is happening on the crown forests out there right now are intended to address the concerns you've raised that other governments have had to wrestle with. It sounds like we're not finished wrestling with it if the articles in the newspaper are true that the United States government—not government, but the people there are going to continue the harassment of our people in Ontario and across Canada.

Mr Conway: I understand that and I appreciate the answer.

Mr Wood: But we're hoping this bill is going to address that, as well as the other things that are happening.

Mr Conway: It's clear to me what the intention is. "The minister may determine from time to time the prices at which forest resources may be harvested or used for a designated purpose under a forest resource licence." It's very clear to me what you intend, and given some of the past history I think that's an understandable section. I just need to know how it is going to work.

Again, I'm president of the Acme Lumber Co at Four Corners, Ontario; I have a licence. The old method

basically is pretty straightforward, and I think I know how that works. Now, I look at this section and I know that it's going to change.

Mr Mammoliti: It would be up to the minister.

The Vice-Chair: Mr Conway has the floor.

Mr Hope: He's not even on the section that's being amended.

The Vice-Chair: Mr Conway is asking questions clearly arising out of section 28.

Mr Conway: It's almost not fair to ask this to the parliamentary assistant; I'd expect an answer from an ADM or director, because it's at that level. It is important. This is more a market-pricing mechanism, clearly, and I understand that and I think there's a good policy argument for that. I'm just trying to get my head around how it's going to work.

Mr Wood: The new pricing system deals with prices by sector, and the information's out there. I don't have it at my fingertips right here and I haven't memorized it and I haven't memorized the manuals.

The Vice-Chair: Mr Wood, it's been suggested that perhaps you might want to draw on the help of the ministry officials, but of course that's up to you.

Mr Wood: The technical briefing was done in Sault Ste Marie to the complete committee and it's available in the copies of Hansard.

Mr Conway: But the great advantage of committee is that we've got staff here, and when this comes back to the House in the fall I don't want to be wasting your time or the time of the committee of the whole on this. That's one of the joys of committees, that you get a chance to talk to the staff.

Again, broadly speaking I know what the policy objective here is, but I'm just trying to get around my head how it's going to work for somebody who is now, has been and will be in the business of buying, basically, crown timber.

Listen, if it's an unfair question, I'll back off, but I tell you, it'll be a question that a lot of elected members—

Mr Wood: In the motion I made, we're talking about the effective retroactive date, April 1—

Mr Conway: I understand that, and that's not my concern. My concern is—

Mr Wood: There is no amendment to the other section that you're concerned about.

Mr Conway: I'm just dealing with the section as a whole.

Mr Wood: If I had known there was going to be a concern, if somebody had brought forward an amendment, we would have had the explanation here for you.

Mr Conway: But this is, to me, in terms of the resource policy—

Mr Wood: I thought it was clear and understood or somebody would have brought an amendment forward.

Mr Conway: The language of the section is clear and I think I understand the policy objective. I don't mean to be argumentative. I'm just trying to understand the mechanism by means of which this is going to be

applied, because I've got a whole bunch of licensees and I know as their member they will say to me, "All right, how is it going to work?" Is there anybody at all—

The Vice-Chair: Mr Conway, of course that would have to come through the parliamentary assistant. I suggested that earlier to him, but he wishes to give the answer himself.

Mr Wood: You're asking for a briefing on the pricing, of how it's going to affect all the licences in your area.

Mr Conway: No, no. I was in another committee, for example, the long-term care committee, where "the following objectives" are outlined by the government and then there's quite a little debate next door about instruments; in fact, most of the debate is around the instruments, not about the policy objective, where I think there's general agreement.

I just look at this as a very major issue in the resource economies of Canadian provinces. I think I know what the government's about here and I'm not necessarily complaining about it, but boy, I'd sure like to know just a little bit about how it's going to work on the ground. Because I'm sitting there now, I have a licence and I've got a mixed bag: I've got some high-value red pine, I've got some low-value aspen, I've got some medium-value basswood, I've got some—you know. It's priced now in kind of a grab-bag.

I think what you intend here, clearly, is to make sure that as Her Majesty sells off her high-value yellow birch or maple or red pine, Her Majesty is going to get full compensation at the time that material is taken off the crown lands, that there's not going to be kind of a general averaging. I think that's what you're going to do, but I'd just like to know.

Mr Brown: Nobody knows for sure.

Mr Wood: Some of this discussion took place during the debate in the Legislature on second reading of this bill, as well as one budget bill for sure and possibly another one, on the trust funds that are being set up, the pricing structure, and how a certain percentage of it was going to go into the trust funds. This debate has been taking place—

Mr Conway: I understand that, Len.

Mr Wood: —and if you want a technical briefing on how it's going to affect each one of your particular licences—

Mr Conway: No, no. I don't want that.

Mr Wood: —the different species, the different sectors—

Mr Conway: Somebody once said that all politics was local, and I guess all I'm trying to get is some sense of just how this thing is going to distil as a practical matter, how the new regime is going to work. Let's say for the purposes of this argument that I am a licensee anywhere—your part of the province, my part of the province. I've got an old order that I know is passing. This is a vital question because this deals with the value of the resource. The public policy that we're seeing here is that the government, I think understandably, is saying, "We are no longer going to sell off valuable crown

resources at anything other than what we think is a good market value at the time." I've got a licence where now I've got all this stuff and it's kind of a rounded average. I'm trying to figure out how this new scheme is going to work.

The Vice-Chair: I think the question's quite clear, but—

Mr Will Ferguson (Kitchener): Well, Mr Chair—

The Vice-Chair: I'm sorry, Mr Mammoliti and Mr Hodgson have been waiting.

Mr Ferguson: He's better-looking than me and he's got more hair.

The Vice-Chair: I will put you on the list, Mr Ferguson. Perhaps while the parliamentary assistant is thinking about answering the question, we can pass on to Mr Mammoliti, and if you come up with further questions we can come back to you, Mr Conway.

Mr Conway: Sure.

1520

Mr Hodgson: I have a point of order, Mr Chair. We're discussing, I believe, an amendment on the floor, and the discussion revolves around the actual clause. Is that in order?

The Vice-Chair: Certainly, the implications of the amendment do affect section 28.

Mr Hodgson: How?

The Vice-Chair: The issues Mr Conway raised certainly relate to the amendment.

Mr Hodgson: I would love to participate in a debate on the whole clause.

The Vice-Chair: Mr Mammoliti.

Mr Mammoliti: Mr Chair, just in terms of clarification, I'd like to know whose amendment this is before I go on.

The Vice-Chair: The government's, Mr Wood's.

Mr Mammoliti: The government's amendment. I'm just having a hard time understanding where Mr Conway's coming from in terms of what he's looking for. He's not looking for a briefing. He wants a question answered. It's my understanding—and Mr Conway of course will tell me if I'm wrong—that you will probably vote opposed to this motion anyway, seeing that they've pretty much voted opposed to most of the motions brought forward by the government. I'm wondering whether an answer would make a difference at this point in how he would vote. That would be my first question, through you, Mr Chair.

The second point is a suggestion; that is, that there really isn't anything stopping Mr Conway, or anybody else for that matter, from perhaps writing a letter on behalf of his constituents to the ministry and asking for some clarification, even after the vote is over. That's been done before. If it's that important to his constituents or anybody else's, that could of course be answered through a letter. That's a suggestion I'd make as well.

Mr Hodgson: If we're discussing the whole bill, you will recall that I withdrew an amendment that would answer Mr Conway's question indirectly. It doesn't have

anything to do with the Acme Lumber Co at Four Corners or the owner, Mr Coyote. It has to do with the essence of the pricing of our resource. The people of Ontario own the trees.

My amendment that I withdrew stated, "The minister shall prescribe the size, form and quality of types of primary forest products and determine from time to time the prices at which forest resources may be harvested." I withdrew that because under existing and future legislation there are acts that govern the pricing, and there are staff people here who know that. What's been lacking in the province of Ontario is the political will to do it.

It becomes more clear-cut in areas like Renfrew and Haliburton-Victoria that you should have, if I can use Mr Conway's analogy, the baloney from the high-quality filet mignon or whatever; really, we're talking about veneer and butt-end logs and middle logs and things like that.

Up in the north, it becomes difficult because you've got this whole concept of chippers, and the pricing we receive, the scaling or the measurement of that wood, is done after it's chipped up, by weight when it goes to the mill. We set a stumpage fee of \$7.50 on a cubic metre for pulp and \$11.50 a cubic metre on sawlogs. This goes to the heart of what we heard throughout our public hearings in the north. What Mr Conway's getting at is, is the ministry going to change how that's done or is it going to continue that? If Mr Wood wants to answer that, that's fine.

My understanding was that they could've changed it under the past or the present or the future things that administer this pricing, so I withdrew my motion because it really depends on political will and has nothing to do with the act per se. If Mr Wood wants to correct me on that, that's fine.

The Vice-Chair: We'll give him a chance later on. Mr Ferguson is next.

Mr Ferguson: From time to time I think collectively as a group we're accused of not being able to see the forest for the trees. I think this is an excellent example of why.

Mr Conway asked a question. It's obviously a logical question and there's a logical answer for the question. Can we ask, through the parliamentary assistant, could somebody undertake to get Mr Conway the response to the question? That being done, perhaps we can move on.

The Vice-Chair: Well, that question has been posed.

Mr Conway: This is really important, because you get in places like my area, but there are lots of other places now, where you could actually have an allocation, a licence, where a substantial amount of what's on that licence has effectively a negative value. Everybody in the room and everybody around with the community advisory group would probably say you want some good harvesting of that but it's got a negative value, and because of various trading agreements there are certain things you'd like to do that you probably can't do to help subsidize that.

So the way in which this section is going to work becomes really important, because the objectives which everyone wants to be met are going to be very much

affected by the instruments. The member for Victoria is right in saying that when you get into northern Ontario you get a very, very different kind of forestry and forest practice from what you get in middle Ontario.

No doubt, I suspect there's a lot more to this than anybody in the government, any government, is probably going to want to admit, because this is an issue that's been litigated in Washington and a variety of other places that has enormous consequences. If it can be shown that we—and we did: I guess it's all over now, and we kind of won the last round. But if you followed any of those deliberations, very clearly the argument has been made that some species in particular, the high-value species especially, have in fact been undervalued and that if you put them on any kind of free market they would command a much higher price. In fact, when you see a free market operating alongside the controlled market of the old Crown Timber Act you could see it; it was plain as day.

The member for Yorkview says, would it change my vote on this? It's really not the issue. The issue is that the government has decided on a policy that I understand; I may not agree with it in all respects. I just need to know, how is it going to work? The objectives may be very laudatory, but, I'll tell you, you could subvert those objectives by choosing instruments which just don't work or in fact contradict what you want.

I'm no expert on this sort of stuff, but again I'm just trying to imagine somebody sitting across from me saying: "I'm a licence holder now. Here's the way it works. I understand the new rules." It's like that graduated driver's licence one, when somebody comes in and says, "These are the objectives of the graduated system." Here's this one: "These are the objectives. We agree. I know how the old system works. How's the new one going to work? How are you going to make it work in Kenora? I agree with your objectives but"—you know? It's that kind of question. How do we, broadly speaking, imagine the new scheme is going to work? If it can't be answered, listen, it can't be answered.

The Vice-Chair: We'll give Mr Wood another chance.

Mr Wood: Most of the answers you're looking for, Sean, are covered under the way the trust funds are being set up, the way the reforestation is being done. They were set up in the budget bill that was brought forward in June that had third reading. In addition to that, we can set up a briefing in your particular area, if you have concern with your sawmills, your licensees, or we can bring our technical people forward to give you a brief answer.

Mr Conway: Believe me, I'll have to take that, but my question is, as this bill proceeds and will pass, presumably—I mean, we are members of the Legislature and we are expected, irrespective of how we vote on a given question, to understand what it is we voted on. Some of it's very complex, and again I think it's almost unfair to put the parliamentary assistant, who is a very fine fellow and has worked very hard—quite frankly, I think Howie is not being fair to the parliamentary assistant putting him in this position. This is a question that should be answered by an ADM. It's a technical question,

but it touches on some of the fundamental policies that work in this bill.

Mr Wood: And they were answered in the technical briefing in Sault Ste Marie.

Mr Conway: But we're now at clause-by-clause.

The Vice-Chair: Mr Wood, Mr Conway's asking for some sort of briefing now, but it's up to you whether you wish to call the ministry—

Mr Wood: I've offered him a briefing in—

The Vice-Chair: That's clearly not what Mr Conway's asking.

Mr Conway: But is there nobody in the room that could come forward simply to speak to this?

The Vice-Chair: Mr Wood is not calling on them, I guess. As Chairman I cannot force him.

Mr Conway: But I just want to be clear. I know some of the people here; they're very estimable people.

Mr Wood: We have Mr McGowan who can come forward. We're looking for a short response that will satisfy Mr Conway.

Mr Conway: You understand my point. I'm the licensee—

The Vice-Chair: I think we had the question made quite clear. Mr McGowan.

1530

Mr Dave McGowan: I'd like to say that I do understand the question but I'm not really sure that I do. Are you asking what system we have in place now as a function of the budget bill?

Mr Conway: No, no. I know the system, what I will call the system pre-Bill 171.

Mr McGowan: So you're asking me to speculate on what system we'll put in place if Bill 171 passes?

Mr Conway: I'm being asked to vote on a key section of a very important bill that seeks to put a new order in place, and the section says, "The minister may determine from time to time the prices at which forest resources may be harvested or used for a designated purpose under a forest resource licence." I am a licensee. That's one of the most fundamental issues in the life of my business and the life of my community. So with all due respect, as we say in Parliament, I would like to know what it is I'm buying in this poke.

Mr McGowan: As I understand the current policy, we are negotiating and have been, through the exercise commonly known as the Bob Carman exercise, with the forest industry to develop a new stumpage system. I believe you have referred to components of that when you use the term "residual value tax."

The system that has been negotiated with the industry is based on determining a price for the product with a minimum fixed stumpage rate, which is a flat rate, and then determining a base cost allowance, which is in effect the set of costs the industry incurs in producing the end product, then determining a mill gate selling price for that product and determining from that a residual value. The system would then determine at what point on the residual value curve—ie, as market price increases, the

residual value in theory increases if base cost stays constant. You would then determine at what point on the curve any added fee would be implied to the stumpage system.

Mr Hodgson: Thank you very much, sir. I have just one quick question, but I have a comment before that.

What Mr Conway's referring to is that some species of trees have a negative economic impact but they should be, for good forestry practices for sustainability, of the economic value for that unit. I'm speaking not in northern Ontario but in eastern and central Ontario. Does the government have anything envisioned in the Algonquin area, for instance, which is covered under this act, in the crown units in our area for a new pricing arrangement to take into account that if you do it on the competitive bid, which you do, people will bid a high price for the veneer and then you can't pay somebody to go in and sort that bush out when they're done so there's value for the next generation?

Are there changes contemplated? Will there be changes in the way the pricing's done as a result of passing this bill, or, as in the briefings we were told earlier, is it that we're going to deal with the large FMAs first with the new business arrangement and then work down into eastern and central Ontario?

Mr McGowan: The issue of trees which you're terming as having a negative economic value becomes a silvicultural issue.

Mr Hodgson: Exactly.

Mr McGowan: My sense is that at this point the price of timber would remain the price of timber and the silvicultural issue would be dealt with separately.

Mr Hodgson: That's what I was trying to get at in my amendment to section 26 on the silvicultural practices, that the prescription should be based on the whole area, not on the volume of wood taken out. That's more specific to our area, speaking of eastern and central Ontario, than it is to northern Ontario. Do you see any changes on that now that my amendment was struck down?

Mr McGowan: I would suggest that would come under the auspices of part IV of the act, forest operations and operations prescriptions.

Mr Hodgson: So it is envisioned that that will be addressed. Thank you.

Mr Conway: Given the answer, I'm just sitting here trying to digest—that's quite an answer, and I will look at it very carefully. What you're basically saying is that it's subject to the completion of the negotiations around the Carman exercise, right? I take it those negotiations are not yet complete.

Mr Wood: We've announced some of them. Some of them are completed and other ones are not complete yet, and we're not going to give away the last chip on the bargaining process.

Mr Conway: No, but again—this is a very interesting way to do legislation. This is a key question and at some point people are going to vote yea and nay on this proposition. It's probably not going to be a big issue in Yorkview, but there are about 25 electoral districts where

it's going to be important, because people are going to be asked at some point to give an accounting of what it is they voted for or against, so I always like to know something about what it is I have assented to or voted against.

The Vice-Chair: I think that's fair.

Mr Conway: And important, in this case. In that area Mr Hodgson refers to, I'm looking at an area roughly from Pembroke up to Sault Ste Marie and down to Haliburton, that big part of sort of east-central, mid-northern Ontario where the silvicultural issues are really important in terms of what a lot of this bill wants to get at, and pricing. For example, in my area you've got one of the great forests of the continent that has been high-graded, and you know what's happened. I'm sitting here trying to understand how this pricing mechanism might work in a situation where you have very substantial amounts of low-grade material, and there's just thousands of hectares of it in my part of the province. The way the pricing mechanism, as you've described it, is likely to work is that there'll be kind of a core value to the timber and then the silvicultural practice and cost issue is going to be calculated above and beyond that, or below that?

Mr McGowan: I think what you have to recognize is that the price for the timber is a separate issue than the issues of silviculture in that we would establish a fixed minimum rate, and then the prices above and beyond that relate to the end product that is made from the wood. If the wood is low-value or low-grade to the point where there's no end product, then the wood generally is not harvested.

Mr Conway: You see, the policy objectives of the ministry would be, and quite understandably so, that we want stand improvement, we want to clean this up. But the problem has been for years that whether it's a community forestry group or the Acme Lumber Co—I might add for the sake of argument—that did a lot of the high-grading, neither of those groups is going to be able to do much because they're going to be faced with the situation where the stuff isn't worth anything. I mean, it has a negative value: To get it the hell out of there, somebody's going to have to pay me money.

Now, we all agree it should come out. Good silviculture practice would say get it out or take a lot of it out, clean it up and let the good stuff grow again. I'm trying to understand how this mechanism is in fact going to deal with that, because if that's not done in some more creative way than it's currently being done, a lot of the very good objectives that the ministry has here I don't think are going to be achieved.

Mr McGowan: Yes. What I'm trying to say is that that won't be a function of how you price timber; that will be a function of how you do your silvicultural prescriptions and will be more related to part IV of the act under forest operations.

Mr Wood: Thank you very much, Mr McGowan, for coming forward. I'm sure that explanation is going to give us the support we needed on our government motion, which is to talk about April 1 or another date as may be determined by the minister. I have no further debate on that.

The Vice-Chair: Are we ready to vote on this amendment?

Mr Brown: No. I just wanted to ask Mr Wood to be precise about this particular amendment and why it's necessary that we have this. This is retroactive yearly, but my understanding about residual value taxes and all that good stuff, from your perspective, was that at least in the present system it rolls: I think every three months there's evaluation and you're paying kind of always three months behind, but it takes account of the market price and the stumpage that is paid today. The minister already has the power to determine the price unilaterally. Why do we need something that's retroactive?

1540

Mr Wood: The fiscal year is from April 1 to March 31, and April 1 is of particular importance in doing a lot of the business that the government has to do. At the same time, there is also the determination that you're going to limit everything to that particular year, that you can do it on a retroactive basis or you could do it at a later date, the next one, possibly within that particular year, to limit it to one year.

Mr Brown: What you're telling me is that this is bookkeeping?

Mr Hodgson: It's a retroactive tax.

Mr Brown: That's what I thought it was.

The Vice-Chair: Mr Hodgson, you don't really have the floor.

Mr Wood: It says "at a later date."

Mr Brown: Why doesn't this say 1994, then? Aren't we just worried about the retroactivity—

Mr Wood: Somebody might not amend this legislation for another 50 years.

Mr Brown: But how often does it have to be retroactive?

Mr Conway: Be suspicious. There's usually more than meets the eye.

Mr Brown: Yes, that's what I'm being suspicious about.

Mr Duignan: You should know that.

Mr Conway: I've done this; you're absolutely right.

The Vice-Chair: Any further questions or comments? No further comments? All those in favour—

Mr Brown: Recorded, please.

The Vice-Chair: A recorded vote. All those in favour of Mr Wood's amendment?

Ayes

Duignan, Ferguson, Hope, Jamison, Mammoliti, Wood.

The Vice-Chair: All those opposed?

Nays

Brown, Conway, Hodgson, Morin.

The Vice-Chair: The amendment carries.

Mr Brown: I move that section 28 of the bill be amended by adding the following subsection:

"Payments to trusts

"(2) A percentage determined by the minister of the

price charged for a forest resource shall be paid to the forest renewal trust and the forestry futures trust."

I think I explained the reason before. What we're hoping to do is to provide some more forest renewal in Ontario. We have a considerable amount of money coming into the province: In the neighbourhood of \$63 million will be coming in through the residual value tax, and it seems obvious to all of us, as we see declining silviculture budgets, that perhaps more of it could be spent in the forests of Ontario productively. Mr Conway suggests that maybe this would be a good place to be spending some money on taking out those trees with negative value and improving the forests in that part of the world, and there would be other important things to do, perhaps in areas devastated by forest fires in the past.

It would provide money. It is coming from the forest industry, from the forest products, from the forest workers, and therefore it would seem to me that this would be a very useful use of the fund, for it to go to the renewal trust and go to the futures trust.

The second issue is that later on, we will be making an amendment to ask that the futures trust include a provision for forestry research, as suggested by Lakehead University and others. I'm nervous that within the present forestry futures trust, which is funded solely by area charges, half the area charges I believe, there isn't money available in it for that particular additional use, and the province of Ontario should be assisting in developing better forestry practices, perhaps better strains of trees. Who knows what could be done if we augment our research and development program?

We believe this would be a better use of the funds than the consolidated revenue fund, that the people who contribute to this fund would at least see direct value coming from this fund. To oppose this measure would be to say, "It is in essence what Mr Brown says it is: a tax, not actually a fee."

Mr Wood: Let's be clear and straightforward. You want to have section 28(2) deal with trust funds, and trust funds are dealt with in part V. In particular to the issue you raise, the bill provides for forestry futures charges in 48(4) and forest renewal charges in 46, and what we're talking about in section 28 is prices. We're not talking about the setting up of trust funds. They're covered. The bill provides for each type of charge to be specified, and separately. We shouldn't be dealing with those areas you have concern about under subsection 28(2) at all; we should be dealing with them under the trust funds. You want to deal with the trust funds under the wrong section, and I won't be accepting the amendment.

Mr Brown: That explanation is rather odd. This is the only section that speaks about the residual value tax. It's the only way we can direct the money to the set-up of the funds.

As the parliamentary assistant well knows, these funds should already be in existence; they were authorized by the Legislature some time ago. We don't need to refer to any section in this bill for those trusts to be in place. We are only directing money to the trusts. We are not trying to establish the trusts. In a later amendment, at the appropriate section, we will be trying to direct some of

the moneys to the trusts. This in no way affects the trust except for the fact of directing the residual value tax to the trusts rather than to the consolidated revenue fund. That's the issue.

I think this is appropriate. We could ask legal counsel if this is the wrong section to do it in, but I would think it's probably the proper section to do it in.

Mr Wood: The only comment I have is that I disagree with you.

Mr Mammoliti: Agree to disagree and let's vote.

Mr Brown: Let's be clear. Are you disagreeing with me because you don't want to dedicate any of this money to the trusts, or is it because it's the wrong section that I'm trying to amend and you will support an amendment doing the same thing to the trusts when we get to that section?

Mr Hope: We'll have to see, won't we?

Mr Wood: I haven't looked at your amendment yet, what you have under trust funds, but we can deal with that as we get there.

Mr Hope: The way we're moving, it'll be a while before we get to that section anyway.

Mr Conway: Thank you, Oliver Wendell Holmes.

Mr Wood: Section 28 deals with prices and fees. I've got no further debate on this.

Mr Brown: This is a critical issue to people in northern communities who are concerned with the forest, and I would repeat to the parliamentary assistant that his own estimates from his own ministry suggest a significant drop in silviculture activities in the forests of Ontario in 1994-95, the year we're in: We are down \$11 million or \$12 million from peak, and that's not adjusting for inflation at all. We're obviously getting much less done in the forests. This is a forest sustainability bill, and it seems to us that to take revenue away from the forest, which he apparently is trying to sustain, is the wrong approach. Therefore, I'm really confused about why the parliamentary assistant doesn't want to tell me why this is a bad idea.

We're talking about a transfer of funds, in your new scheme, of about \$100 million, roughly speaking, from the pockets of northern Ontario people to the Treasurer of Ontario. All I'm trying to say is that we still need that money to do work in the forest and to promote our industry and do research.

Why aren't you willing to leave the people of northern Ontario and central Ontario, in those forest regions, with that money to use for very productive purposes, to create jobs?

Mr Wood: As I said before, I disagree with your motion and we will be voting against your motion as it reads.

The Acting Chair (Mr Gary Carr): Any further discussion?

Mr Brown: I think we need 20 minutes.

The Acting Chair: Okay, we're adjourned till 10 after 4.

The committee recessed from 1551 to 1612.

The Acting Chair: We're resuming with the vote on the Liberal motion, subsection 28(2). All in favour of the motion? All opposed? Defeated.

Now we'll be voting on section 28, as amended. All in favour?

Mr Brown: Can we record this?

The Acting Chair: Recorded vote.

Ayes

Ferguson, Hope, Jamison, Mammoliti, Wood.

The Acting Chair: All opposed?

Nays

Brown, Hodgson, Morin.

The Acting Chair: The section carries.

Mr Hodgson: I'd like to make a motion at this time to stand down all the clauses from where we are now up to section 66 and deal with section 66 in the remaining time. I'm asking for unanimous consent.

The Acting Chair: Do all agree?

Mr Hope: And that we revert back after that section to section 29?

The Acting Chair: Right. Okay, that's unanimous consent.

Section 66 is your amendment, Mr Hodgson.

Mr Hodgson: Yes. I move that subsection 66(1) of the bill be amended by adding the following:

"Manuals

"5. Scaling Audit Reference Manual."

I feel this is essential, that there be uniformity throughout the province on scaling. In the manuals that exist today, there are two small paragraphs to deal with this important issue. It's a fact that 92% of all the crown timber harvested in Ontario is scaled and weighed by the industry and \$100 million is collected annually in the form of crown charges, and the only means of control and protection for the taxpayers and the industry is through a detailed audit program. There's been considerable work and effort expended over the past 15 years to develop such a program. It's been set out in the Scaling Audit Reference Manual and approved in policy, and it should be legislated.

I would hope that the government would agree to this amendment. It's in the ministry's own policy and it should be in legislation. It's fairly self-explanatory. I have a copy of the actual document, the Scaling Audit Reference Manual. Hopefully there wouldn't be any problem with incorporating this right into the legislation.

Mr Wood: We've had some discussion that we're not really in support of this particular amendment but we have other amendments that are going to address the concerns.

Mr Hodgson: If I could see that amendment, I might withdraw my motion.

Mr Wood: It's the government motion numbered 75-A in the upper right.

Mr Hodgson: But 75-A doesn't refer to incorporating the Scaling Audit Reference Manual. It says to insert "and the conduct of scaling audits" after "in various

circumstances" in the last line." I don't follow.

Mr Wood: I think the understanding is that we will incorporate what's in that particular manual you're referring to into the Scaling Manual.

Mr Hodgson: Will it mention specifically that there's a Scaling Audit Reference Manual? That's all I'm asking for.

Mr Wood: The intention of the amendment is that it will be drafted into one particular manual.

Mr Hodgson: It can be incorporated into your Scaling Manual if that's the intent of the government, but I'd like it referred to specifically as the Scaling Audit Reference Manual, those actual words, in the two paragraphs that deal with scaling in the act.

Mr Wood: I think what our intention is, and the discussions we've had to address the concern, is to give it the power of law and be able to put it into one manual. In the amendment, we're saying "and the conduct of scaling audits." It will be addressed all in one particular manual so we don't have two separate manuals.

Mr Hodgson: That's fine, as long as you mention and refer to this Scaling Audit Reference Manual. Fifteen years of work have been put into this by the ministry. It's recognized by the chartered accounting: "The standards imposed by this manual have been adopted for scaling audits, from generally accepted auditing standards as set out in the Canadian Institute of Chartered Accountants handbook, the standards for the professional practice of internal auditing as developed by the Institute of Internal Auditors, and as a strategy for scaling audit workshops."

I feel it's important that we reference this manual specifically, because there is some concern. I'm not an expert in this area, but there are various places in the act that refer to accounting. Accounting is only carried out in sampling procedures as part of an approved sampling plan; It's not part of scaling. I just want to be sure that we are consistent throughout the province and put this into the legislation, the exact words "Scaling Audit Reference Manual," that it's going to be the guide and the standard which is used across the province.

Mr Wood: The intention is that that will be incorporated into the manual dealing with scaling.

Mr Hodgson: So will the government motion be amended to specifically say the Scaling Audit Reference Manual at the end? You can amend that manual if you like, but I'd like it referred to. Is that the intention of the government?

Mr Wood: That wasn't the exact intention. The intention was to address your concern, that what is in there is going to be dealt with.

Mr Hodgson: What I'm getting at, if I can just be a little more clear, is that in subsection 42(3), there is a line in there that says scaling shall be carried out "in accordance with the Scaling Manual or, if directed by the minister, in such other manner..." This is the only way that the people of Ontario know that they're getting proper value for what's been taken off the crown land. You know you've taken a tree from this forest, it's gone to this processing facility, and you got paid this much money.

If we're not going to actually do the scaling, we should have a check in place that is consistent across the province that anybody can go by proven method and audit that trail and be assured that they're getting the proper money and that the proper things are taking place, so we wouldn't run into situations where the people of Ontario don't know what's going on in the forest.

Mr Wood: I don't know if I'm going to be able to answer to your satisfaction, but the intention is that the Scaling Manual is going to basically standardize this and will have the force of law to be applied out there in the field.

Mr Hodgson: I realize that, and if you can just make mention that in the Scaling Manual the guide is going to be the Scaling Audit Reference Manual, I'm satisfied with that.

Mr Wood: At this point in time, I don't know if we really want a reference to—

Mr Hodgson: Do you want to stand it down and go on to the next area?

The Acting Chair: We can come back to it eventually.

Mr Wood: Okay, we'll stand that one down and get back to it.

The Acting Chair: We will stand that one down.

The next one is a government motion to subsection 66(2).

1620

Mr Wood: I move that subsection 66(2) of the bill be amended by striking out "may" in the second line and substituting "shall."

The Acting Chair: Discussion? Seeing none, all in favour of the government motion to subsection 66(2)? Opposed? Carried.

The next one is, I believe, a Liberal motion, subsection 66(2).

Mr Brown: It's identical to the government amendment that we just passed.

The Acting Chair: Sorry; that's done. So we go to 66(2)(a), which is also a Liberal motion.

Mr Brown: I move that clause 66(2)(a) of the bill be amended by striking out "forest operations prescriptions" in the second and third lines.

The Acting Chair: Any discussion on that?

Mr Brown: There would be, except that we moved up about 40 sections and my sheets are a little out of order, Mr Chair. If you would hang on for one second, I can probably give you some reason for doing that.

Mr Wood: Maybe I could be helpful while Mr Brown is looking. We're looking at an amendment which would basically eliminate forest operations prescriptions from the Forest Management Planning Manual, resulting in the loss of opportunities for site-specific accountability. We don't want to lose this accountability and, as a result, we will be voting against the Liberal motion. We feel we need the prescriptions to be site-specific for accountability.

Mr Brown: I appreciate what the parliamentary

assistant has just said, but the reason we are putting it forward is that we remain concerned that the prescription may not determine the future. In other words, a forester will, through the prescription, indicate what silviculture practices will be followed to restore the forest to a certain standard, and we are concerned that, having actually been on the ground, the prescription he has put forward will not be the prescription that will have the desired result, that the prescription found in the plan will not be the one that will actually do what we want to do.

I understand what the parliamentary assistant is saying, but I'm not certain that we're not getting process before result here. Maybe what we should be talking about is the result rather than the prescription. A forester needs the flexibility to change the approach once he's on the ground in a certain area on a certain day. What we should be more interested in than the prescription is what the plan calls for in terms of outcome. Instead of being so process-related, we should look at the result.

Mr Wood: All we really want to say is that before somebody goes in and takes everything out of there, he should be able to explain what was there in the first place.

Mr Brown: We of course agree with that, and we of course agree there should be a plan, but we're just concerned that the prescription might be carried out even if the patient dies, so to speak: the forest. What could be done and what was planned to be done are different things, and there should be an opportunity to make the changes so that the result is what happens rather than that we blindly follow some prescription that will not work.

Mr Wood: There is an earlier section that covers the flexibility you're concerned about.

Mr Brown: However, it is somewhat cumbersome.

The Acting Chair: Further discussion? Seeing none, we'll have a vote on the Liberal motion for clause 66(2)(a). All in favour? Opposed? It's defeated.

So we're on to the next government motion, clause 66(2)(b).

Mr Wood: I move that clause 66(2)(b) of the bill be amended by striking out "forest ecosystems" in the second line and substituting "crown forests."

This amendment is brought forward as a result of the hearings where we heard about the lack of commitment to contents in the manuals. One of the ways of dealing with it is dealing with it as "crown forests" instead of "forest ecosystems," and we feel this is going to address some of the concerns that were brought forward in the hearings.

Mr Brown: I'm just trying to determine how this is helpful. When you start talking about a crown forest, it indicates potentially a much larger area than a forest ecosystem. Are you not attempting, through this section, to deal with more specific sites than you might under a prescription for an entire crown forest?

Mr Wood: We're dealing with the Forest Management Planning Manual.

Mr Brown: But that applies to specific areas which are not necessarily in and of themselves a crown forest; it would be a specific ecosystem or numbers of ecosys-

tems within that management unit or that FMA or whatever. The way it's written at the moment, it permits an understanding that the entire area of the management unit may not be the same. I'm just wondering why we're moving "crown forests."

Mr Wood: The feeling when drafting the amendment was that the wording would provide a firmer commitment to the content of the Forest Management Planning Manual. It's been kicked around out there by a number of people and we said, "Okay, we can go along with that," and we brought it forward.

Mr Brown: I'm actually not terribly concerned about the change in wording. I'm not too sure it makes a substantial amount of difference.

1630

The Acting Chair: Further discussion? Seeing none, we'll vote on the government motion, clause 66(2)(b). All in favour? Opposed? Carried.

Another government motion under clause 66(2)(b).

Mr Wood: I move that clause 66(2)(b) of the bill be amended by adding at the end "in accordance with section 1.1."

Interjection.

Clerk of the Committee (Mr Franco Carrozza): Section 1.1 is a new section that we put into the bill on the first day.

Mr Wood: We said we would deal with this in 66(2).

Clerk of the Committee: Chris, look at amendment number 2 in your book.

Mr Hodgson: I'm with you. So the discussion's on which amendment?

The Acting Chair: Clause 66(2)(b). It's 73.1 in the top right-hand corner.

Mr Hodgson: Got it. Fine.

The Acting Chair: Further discussion? All in favour? Opposed? Carried.

Another government motion.

Mr Wood: I move that the French version of clause 66(2)(b) of the bill be amended by striking out "notion de" in the first line.

The Acting Chair: Discussion, if any? All in favour? Opposed? Carried.

Now we jump to the motion numbered 76, which is the Liberal motion under subsection 66(2.1).

Mr Brown: We're not making those other ones?

Clerk of the Committee: Subsection 66(2.1) is a new subsection that you're adding to subsection 66(2). The amendment should be placed now because we just finished clause 66(2)(b).

The Acting Chair: Then we'll come back to 74.

Mr Brown: Is that a government motion?

Mr Wood: You withdraw yours and I'll make mine.

Mr Brown: Given the chances of passing this, I think we'll just withdraw it.

The Acting Chair: So the government can go ahead with motion 76-A.

Mr Wood: I move that section 66 of the bill be

amended by adding the following subsection:

"(2.1) The Forest Management Planning Manual shall require that every forest management plan contain,

"(a) a description of the current structure, composition and condition of the crown forest;

"(b) management objectives relating to,

"(i) crown forest diversity objectives, including consideration for the conservation of natural landscape patterns, forest structure and composition, habitat for animal life and the abundance and distribution of forest ecosystems,

"(ii) social and economic objectives, including harvest levels and a recognition that healthy forest ecosystems are vital to the wellbeing of Ontario communities,

"(iii) objectives relating to the provision of forest cover for those values that are dependent on the crown forest,

"(iv) silvicultural objectives for the harvest, renewal and maintenance of the crown forest; and

"(c) a description of the future structure, composition and condition of the crown forest."

A lot of dialogue and discussion has gone on in the last couple of days in order to move this bill forward with the amendments, and I think all three caucuses have had some discussion on it.

Mr Brown: We are supportive of this amendment, particularly (c), I believe, which is important. This says, "a description of the future structure, composition and condition of the crown forest." In our view, a part of this bill that has been sadly lacking is any kind of objectives or measurable sustainability. I believe this is the first section where we actually talk about what we hope to achieve and that the management plan will have to address what we are hoping the forest to look like somewhere in the future.

We agree with this government amendment, as I think all members do. The difficulty, and I will just register it, is that this, in our view, remains in the wrong section. Statements like this should be in the purpose clause of the bill.

Mr Hodgson: As I think the parliamentary assistant said, my comments stand from the other morning when we dealt with section 1 of the bill. I'm supportive of the government's amendments. I think they take into account some of the debate we had at that time.

The Acting Chair: All in favour of the government motion? Opposed? Carried.

That will take us back to the government motion 74 under subsection 66(4).

Mr Wood: I move that subsection 66(4) of the bill be amended by striking out "may" in the second line and substituting "shall."

The Acting Chair: Discussion? Seeing none, all in favour of the government motion? Opposed? Carried.

That will take us to the next government motion.

Mr Wood: I move that clause 66(4)(c) of the bill be amended by striking out "persons engaged in forest operations" and substituting "persons specified in the manual who are engaged in forest operations."

Mr Brown: What does that mean? What is the improvement?

Mr Wood: To help you out, Mr Brown, what we're talking about here is that it's a way of being able to permit the certification of forestry workers as the need is identified. We needed some different wording to make sure that was clear. The amendment maintains the original intent. "Persons" by itself would have to be more defined. Now we can define them in the manual with this clarification.

Mr Brown: So really, it just allows you a little more latitude to use the manuals to describe those persons.

Mr Wood: Yes.

Mr Brown: Okay, I understand.

Mr Wood: We're ready to vote.

The Acting Chair: All in favour? Opposed? Carried. This takes us to a government motion to amend 66(5).

1640

Mr Wood: I move that subsection 66(5) of the bill be amended by inserting "and the conduct of scaling audits" after "in various circumstances" in the last line.

A discussion has taken place over the last number of hours about putting proper language in here that's going to satisfy all three caucuses. A number of people outside of this room have been involved in drafting the wording and they say, "This is what we can live with." We agree. As a result, we've brought forth a motion that I think clarifies it and everybody understands it.

Mr Hodgson: In a perfect world, from our perspective we'd wish to see the word "must" instead of the word "may" at the start of subsection 66(5). There's some debate, but the side I've heard is that the word "counting" should be omitted; I understand there's quite a debate within the professionals who have to deal with this.

Also, after the "crown forests" insert the words "according to the Scaling Audit Reference Manual." Having said that, I'm assuming, and the parliamentary assistant can clarify, that the Scaling Audit Reference Manual will be incorporated in the scaling audits as required under this section and have the force of law. Therefore, it's an improvement and I'll be supporting this.

Mr Wood: This is the intention, yes.

Mr Brown: He also will be providing reports to the government, making I believe both the parliamentary assistant and the member from Victoria-Haliburton happy, as well as making a good improvement to the legislation.

Mr Wood: Thank you very much. I appreciate that.

The Acting Chair: Good. All in favour of the government motion? Opposed? Carried.

I believe we'll be then going to Mr Hodgson's motion which he—

Mr Hodgson: Yes, Mr Chair, I'll withdraw my motion.

The Acting Chair: Now we'll be voting on section 66, as amended. All in favour? Opposed? Carried.

Which takes us to section 67.

Mr Brown: Slow down. We're to revert back to section 29.

The Acting Chair: Sorry. That takes us back to—

Mr Brown: We've been so happy so far.

Mr Wood: Just rolling right along.

The Acting Chair: Section 29: I believe the first one is a PC motion, number 38 in your book.

Mr Hodgson: I move that section 29 of the bill be amended by adding the following subsection:

"Limitation

"(4) The annual area charge shall be restricted to the productive forest area available for harvest."

There was quite a discussion during our public hearings that it's unfair to ask a forest company to pay for the area charge when there's a large chunk of that area taken out of production. They pay for the area charge with their timber extraction, and if there are other values that need tree or forest cover they shouldn't have to pay the area charge on that area. I'm thinking specifically of setbacks or keep-it-wild zones or, in future hopefully, multiple-use purposes like hunting and recreational activities. If we're going to set those aside, it's unfair to ask the industry, of one use of the forest, to pay for the whole area charge. That's the intent behind my amendment.

Mr Wood: The intent of this section is that it provides for the area charges to be determined in the regulations, and the regulations currently limit the area to the productive forest area. It's preferable to allow the regulations to determine the appropriate area rather than having it in the legislation.

Mr Brown: We certainly are in favour of this amendment. Contrary to the parliamentary assistant's belief, it should be in the act, not in the regulations. As you know, regulations can be changed far easier than legislation, and I think it would be in the interests of Ontarians to have this described in the legislation so that if a future minister of the crown wishes to change the way this is done, he would at least have to come back to the people who have been elected in the province to have that determination made.

It is a problem we've heard a great deal about, where people believe they are being unfairly penalized by paying for areas of the forest that they have no opportunity to ever use. That is a concern we heard from Fort Frances through Kapuskasing and all points in between. Certainly, in some of the letters to my office and contacts we've had it's been a concern that people have had, and I don't really understand why there's a great deal of difficulty with this particular section being placed in the act. The parliamentary assistant says, "We're happy to do it in the regulations." I really don't understand what the problem is. If he has the courage of his convictions, he will be supporting this amendment.

Mr Wood: As I said, we don't feel the amendment is necessary. I'm aware of some of the misunderstanding that was out there, but we've tried our best to clarify any misunderstanding. We're determined that it should be in the regulations, and we're also talking about productive forest area.

Mr Brown: The issue is maybe a little broader than that. To be fair, we should understand that we heard a great deal during the three weeks of public hearings about the need for a defined land use: productive forest or industrial forest or commercial forest; we heard various terms for it. People holding licences are tremendously concerned that they will be involved in withdrawals, that they will pay for 75 years for the use of a specific area and that the very point when they are about to be able to productively use that part of the land will be the time it's withdrawn.

To some extent, that's the problem with area charges, that they encompass 100% of the forest—with the exception of some land that has maybe been taken out, but generally speaking, the larger part of that—when typically a forest operation occurs at best on 1% of that land mass during any particular year. So it's quite conceivable, when you're dealing with 100-year time frames, that you will never have the opportunity to use forest that may be withdrawn.

So we come to the issue of, "What is a productive forest?" and outlining it so that when we talk about the fees being paid, we're also talking about what exactly it is. Certainly, a member representing Cochrane North would understand that issue and the difficulty that people have with the fairness of paying for 100 years on something they eventually end up not being able to use in any productive fashion. Under this system, they will even be charged with the responsibility of managing that forest.

Mr Conway: Just as an example, in my area just last fall the minister, Mr Hampton, had engaged in a good discussion with a number of people in the community around withdrawal of lands, and a number of options were being considered. He did indicate, I thought quite properly, that he would in fact get back to—in this case, it was to a committee of our county council because there was a concern that the withdrawal would have a real effect, as it did.

As I remember it, there were four or five options being considered. The minister said he appreciated the involvement, the consultation, that there would be a decision made on the basis of the options they had discussed but that there would be at least one last pass-over by the minister before a decision was made. Lo and behold, on Christmas Eve, I think at 2 o'clock in the afternoon, the minister opted for option 6, which was not on anybody's agenda, and announced it ex cathedra, as we say in my church. You can imagine what that did to local folks.

So these are real concerns. It may very well have been that the minister was animated by the highest order of public interest—I can't imagine he had any other goal in mind—but I repeat, the withdrawal that was contemplated was discussed and I think there were five options in an escalating order. At the end of the day, option 6 was chosen and announced unilaterally on Christmas Eve.

I just tell that little anecdote, because I know the parliamentary assistant would never do that. I don't know whether Santa Claus had just arrived late for the minister—but anyway, I just tell that story to buttress the

comments of my estimable friend from Algoma.

Mr Wood: I would only make another comment. With the last four or five words of that motion that you've brought forward, "restricted to productive forest area available for harvest," our concern is that there's confusion out there. We say "productive forest area"; you're saying "forest area available for harvest." This is the problem we have with the motion you've brought forward, and we're saying there is other wording that could be used in the regulations that will address that concern.

Mr Hodgson: The crown lands belong to all the people of Ontario. At some point, there's going to have to be a plan set in place on what uses are allowed if we're going to go down the road of multiple use that I think everyone in Ontario wants to go.

This is just a recognition of basic fairness, that if they're going to pay the cost of an area it be on the area they use. I don't see how that would contravene the intention. If the intention of the act is to put it in the regulations, why don't we enshrine it in the legislation itself and use it as a principle for all licence holders?

We're not talking about the Crown Timber Act here. We're talking about the ability to issue multiple licences on the same area of land, and I think a basic principle of that would be that you pay for what you use. If this is what the intention of the government in the multi-use strategy is, this just sets it out clearly and forces the ministry, some time between now and then, to set out that we're working towards multiple use with a specific plan on what we want to sustain and how we want to sustain it.

Having said that, I would suggest, Mr Chair, that we have a five-minute break so we can all read the legislation over and consider it in a little more detail before we're requested to even vote on it. I'm sure there can be compromises found between now and October 31, if there's unanimous consent.

The Acting Chair: Is there unanimous consent for a recess for five minutes?

Interjection: No.

Mr Hodgson: I can talk for another five minutes.

Mr Wood: Mr Chair, in the event that the five-minute recess might go beyond 5 o'clock, I would like to take this opportunity to thank all of our people who have been involved in the clause-by-clause and the public hearings: our political staff, the MNR staff, our people from Hansard, our translators—everybody who has been involved in the four weeks we've been out there. I appreciated very much all the assistance we've had from everybody, and we'll be looking forward to getting back into clause-by-clause on this early in November.

The Acting Chair: Further discussion?

Mr Hodgson: I move adjournment.

The Acting Chair: All in favour of adjourning? Okay. We will adjourn until the call of the Chair.

The committee adjourned at 1655.

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STANDING COMMITTEE ON GENERAL GOVERNMENT

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- ***Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)
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 - Wessenger, Paul (Simcoe Centre ND)
 - White, Drummond (Durham Centre ND)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Carr, Gary (Oakville South/-Sud PC) for Mr Arnott
Conway, Sean G. (Renfrew North/-Nord L) for Mr Sorbara
Duignan, Noel (Halton North/-Nord ND) for Mr Mills
Ferguson, Will, (Kitchener NDP) for Mr Dadamo
Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson
Hope, Randy R. (Chatham-Kent ND) for Mr White
Jamison, Norm (Norfolk ND) for Mr Mills
MacKinnon, Ellen (Lambton ND) for Mr Wessenger
Morin, Gilles E. (Carleton East/-Est L) for Mr Grandmaître
Wood, Len (Cochrane North/-Nord ND) for Mr Morrow

Also taking part / Autres participants et participantes:

Ministry of Natural Resources:

Wood, Len, parliamentary assistant to the minister
McGowan, David, policy advisor, legislation and special projects

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Beecroft, Doug, legislative counsel

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Third Session, 35th Parliament

Assemblée législative de l'Ontario

Troisième session, 35^e législature

Official Report of Debates (Hansard)

Thursday 3 November 1994

Journal des débats (Hansard)

Jeudi 3 novembre 1994

Standing committee on
general government

Comité permanent des
affaires gouvernementales

Crown Forest
Sustainability Act, 1994

Loi de 1994 sur la durabilité
des forêts de la Couronne

Chair: Michael A. Brown
Clerk: Franco Carrozza

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Thursday 3 November 1994

Jeudi 3 novembre 1994

The committee met at 1015 in room 151.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Vice-Chair (Mr Hans Daigeler): This committee is now in session. I hope you all had a good remaining summer and are keen and eager to continue the clause-by-clause on Bill 171.

I understand from the clerk that when the committee last sat, we had an amendment moved already, to section 29, by Mr Hodgson. There is now debate on the amendment to section 29. Is there any further debate?

Mr Gary Carr (Oakville South): Just on a point of order, Mr Chair: Did he speak to that already? I can't remember.

The Vice-Chair: I'm informed that Mr Hodgson did speak to the amendment at the time, but you can still speak to it, if you want.

Mr Carr: Maybe you could refresh my memory whether there was a reply from the government, whether they looked like they would accept it. Do you remember? The parliamentary assistant can maybe tell us.

Mr Len Wood (Cochrane North): Our response was that it would not be acceptable.

Mr Carr: Okay. I won't spend so much time trying to convince you then. Thank you. I've learned my lesson.

The Vice-Chair: Are you ready for the vote then? All those in favour of Mr Hodgson's—

Mr Michael A. Brown (Algoma-Manitoulin): Could you just give us one second while we try to figure out where—

The Vice-Chair: Okay. We'll give you a couple of seconds. Amendment to section 29. It's in your bundle and it's, I think, number 38. Are we ready?

Mr Brown: This amendment is the one—just so I can be clear about what we're voting on here, Mr Chair—the Tory amendment and it says:

"Limitation

"(4) The annual charge shall be restricted to productive forest area...."

That's the one?

The Vice-Chair: That's correct.

Mr Brown: I will just indicate briefly that the Liberal Party favours this amendment.

The Vice-Chair: All those in favour of Mr Hodgson's amendment? Opposed? The amendment is lost.

Are there any further amendments to section 29? All those in favour of section 29?

Mr Randy R. Hope (Chatham-Kent): As amended.

The Vice-Chair: As amended.

Clerk of the Committee (Mr Franco Carrozza): No, there's no amendment.

The Vice-Chair: No. I'm sorry. They're getting me confused here.

All those in favour of section 29? All those opposed? Carried.

Before we move on to the next section, I just would like to draw your attention to the additional amendments that have been placed before you. These amendments come from the government. I understand that there are amendments to two sections that the committee has already voted on, and moving these amendments would require unanimous consent. There's one in particular to section 23 we'd have to go back to.

Also, I understand that in my absence you went ahead to section 66 and took that in advance of approving all the other sections, so on that as well we'd have to have unanimous consent. Do you want to deal with these two items now or do you want to go on to section 30?

Mr Carr: My feeling is that we should probably deal with them now and get them done with and get back and get the unanimous consent.

The Vice-Chair: Is this agreeable to the committee? Agreed.

Is there unanimous consent to reopen section 23? Agreed.

Mr Wood: I move that section 23 of the bill be amended by adding the following subsections:

"Term

"(1.1) A licence under this section may be granted for a term of up to 20 years and the term shall be extended in accordance with subsection (1.3).

"Five-year review

"(1.2) During the term of the licence, the minister shall conduct a review every five years to ensure that the licensee has complied with the terms and conditions of the licence.

"Extension of term

"(1.3) If a review conducted under subsection (1.2)

satisfies the minister that the licensee has complied with the terms and conditions of a licence, the minister shall, with the approval of the Lieutenant Governor in Council, extend the term of the licence for five years."

The industry has raised some concern about security of raw material during the last few weeks, and we feel that the amendment to section 23 will address the concerns out there. Basically, the motion carries the evergreen clause over from the FMAs into the legislation itself and provides the opportunity of a sustainable forest licence being extended indefinitely, based on satisfactory performance. We feel that we've listened to the concerns out there and we're addressing them by this amendment.

Mr Carr: During the hearings, I know on this section there was some concern about the broad powers given to the ministry. It's my understanding, as the parliamentary assistant mentioned, that the forest industry and the various companies agreed to this amendment, and so on. So that is the understanding, that this has been the agreement that they agree on and you worked it out together?

Mr Wood: Yes. The information we have is that this basically is going to have investor confidence out there and this is one of their concerns as well.

Mr Carr: Okay. So if I were to ask all those people, they would say yes, this is one we should agree with? That's your understanding?

Mr Wood: They are quite satisfied that we are moving the amendments that are coming forward, yes.

Mr Carr: Okay. I'll take your word for it. Thank you.

Mr Brown: I won't take the parliamentary assistant's word for it because I have been in discussions with some industry groups. Maybe I could quote what they are saying about this particular amendment. "In our view, the proposed amendments do not change the fundamental proposition here."

They are not satisfied. That is what I've been told; that's what we've heard in writing. So to present this as something the industry is in favour of may reflect certain portions of the industry—I have no idea who the ministry talked to, but certainly at least one major player doesn't believe it addresses the issue, and it doesn't address the issue, because while it puts a maximum on, the minister still has huge discretion. The minister still has the ability to cancel a licence at any point that the minister sees fit, and that is a major concern that is not being addressed whatever in this amendment. It puts on a maximum, but it doesn't provide a minimum, and that's problematic. The minister still has huge discretion.

To help out Mr Carr, I think that if he went back and got on the phone, he would find that the industry is not exactly wild about this proposed amendment and doesn't really believe that it enhances tenure in any tangible way. I think Mr Wood should know that tenure is one of the most contentious parts of this bill.

If you have a look at this bill, it's called "forest sustainability." It's a bill that doesn't define "forest sustainability" in its purpose clause, so we're not sure why we need it from that perspective. We're not sure all

the good things the parliamentary assistant says are happening wouldn't be just happening if the terms and conditions of the forest EA, the class EA, were followed under the present Crown Timber Act. We don't need this legislation to establish the forest trust he's so proud of; the Legislature passed that some months ago.

One of the basic parts of this bill is the tenure section. We have people who are in favour of more flexibility. We have people who are in favour of more security of tenure. We have people who believe that this may not achieve either; that we may not get more flexibility and we also lose the aspect of security under this change to the way tenure is looked at in the province of Ontario.

It is a significant problem, as all members would know. The problem of wood supply to mills is critical. You cannot make an investment or convince a bank or talk to the investment community in general to invest funds if security of wood supply is not there and guaranteed. The parliamentary assistant would know full well, as every government in the province's history has known, that you are always having difficulties with certain mills saying, "We don't have enough supply" and others not willing to give up some of theirs for those kinds of reasons.

We think the government should really be taking a step back on this particular issue, because it's one of the fundamental sections of this bill, and going out and talking to the people involved again and trying to come up with a consensus on how to deal with tenure so it achieves what the government is, I suspect, hoping to achieve here; and that is, to provide communities, companies, workers with a reliable source of fibre for their enterprise, whether that be softwood lumber, whether that be pulp and paper, whether that be newsprint, whether that be veneers—whatever it happens to be. We don't think this particular approach is very helpful and we don't understand why the ministry cannot go back and come up with a consensus of people to come to some agreement on how this works.

What we are essentially doing here is granting the minister huge discretion over decisions on wood supply. I asked the parliamentary assistant some months ago now if he would provide us with the criteria upon which ministers of Natural Resources would make the decision about who gets what wood when, when there is a surplus declared. He undertook to provide me a copy of the call for proposals in each and every one of the situations that has arisen over the last year or two. I have yet to see those. I don't know whether the third party has received copies of those proposals so that we could at least glean from those proposals what criteria the government was looking for. We're quite disappointed that the government hasn't provided us with the information it told the committee would be provided to us.

We don't think this is very helpful. We don't think this really changes very much at all. Businesses we've talked to indicate that they don't really believe this is much of an improvement over the way the bill is presently written, and many businesses are quite concerned about the investment climate in this province for people in pulp and paper, for people in softwood lumber, for people in all

sectors. The tenure's going to be diminished; therefore they are going to have more difficulty in providing financing, providing jobs and providing for a responsible harvest of Ontario's forests.

I would like the parliamentary assistant to provide us first with the information which he indicated he would provide us with probably two months ago now, and I would ask him if he would explain to us how this is much of an improvement over what's presently in the bill.

1030

Mr Wood: Briefly, industry has indicated to us, contrary to what you claim they have told you, that they are in favour of the amendment being brought forward here. They also would like to have control over all of the crown forests, but they realize that in today's climate there is a need out there to secure the jobs in the communities, to create new jobs. There has been \$400 million or \$500 million of investment that has come into the province to start up new operations, and they understand that this is going to have to happen. They've basically told us that they're in favour of the amendment that is brought forward here. It's something they can live with. They weren't happy if there wouldn't have been this amendment brought forward, but they are in favour of it.

As far as the other information that you're looking for, I was under the impression that the information had been given to you. I'll check into it to see why it hasn't been delivered.

Mr Carr: In light of what Mr Brown said, I wondered if I could get a little bit more specific with the parliamentary assistant. He talked about the industry agreeing to it. I think what happens in cases like this, there tends to be a compromise. Different groups might not get everything they want, so it wouldn't be their first choice.

I was looking back on some of the presentations and what people said about section 23. I hate to sound almost like a criminal lawyer asking these questions, but in light of what Mr Brown said, I wanted to be specific. Could I ask the parliamentary assistant about a couple of groups in particular? Does the Ontario Forest Industries Association, for example, agree with the compromise amendment that you have put forward? If I asked Marie, would she say we should support it, do you think?

Mr Wood: I don't know if Marie would, but I know some of the chief financial officers of the industry would tell us yes.

Mr Carr: So the OFIA as a group hasn't agreed to this then?

Mr Wood: They've been involved in the dialogue that has taken place.

Mr Carr: The dialogue, but they haven't agreed to it. Okay. I hate to be specific, but I know we got into this problem last time when we said we did negotiate and so on. What about, and I'll use the one in your own home town, Spruce Falls Power and Paper? Mr Virgo up there, would he agree to this?

Mr Wood: Mr LeBlanc has talked to me, Marcel LeBlanc. I guess he's the vice-president. He reports

directly to Frank Dottori. He has indicated that they were looking for the amendment. He realizes that Kent Virgo and Dave Goss would probably like other things, but they're depending on the Ontario Forest Industries Association to do the lobbying instead of them doing it directly. I had a meeting with him last week.

Mr Carr: What happens is it puts us in a difficult position, because you've got some groups—it makes it very difficult. I know Mr Hodgson has spoken to various groups. He's unable to be here today and he tried to fill me in, but it makes it very confusing on the amendment, because you've got some companies that may benefit as a result of certain circumstances, that may want it, and others that do not. It makes it very difficult in terms of talking about the support of the amendment.

I guess what we're looking for and how I would sum up what has happened is that not everybody agrees entirely the way it would be, but there was an attempt at some type of compromise. If I was to ask a lot of the industry people, they would say: "This is better than it was before. It isn't perfect, we would like more, but it's better than what we have now, so you probably should support it," although other ones would say, "If we don't get what we want, you shouldn't support it at all."

I just wanted some clarification, which I don't think I got too much of. Basically, we're into a situation where people still don't agree entirely 100%, but some of them feel it's better than not having the amendment. That's basically the way to sum it up?

Mr Wood: One of the words that the industry was really concerned about was the word "may", to change it to "shall," which we have done. This has gone a long way in allowing everybody out there to say that this is a win-win situation for everybody and that they can live with this. As I said before, the OFIA has been part of the discussion on the amendments that have been brought forward by the government.

The Vice-Chair: Mr Bisson.

Mr Gilles Bisson (Cochrane South): Actually, the points have been raised by Mr Carr. It's quite fine.

The Vice-Chair: Any further debate? Mr Brown.

Mr Brown: This is the OFIA's, dated November 1. The OFIA says, "The proposed amendment to subsection 23(1) merely adds a maximum duration to the length of the licence but in no way prevents the invocation of other provisions referred to above authorizing the amendment, suspension or cancellation of the licence."

Clearly, and I have spoken with the organization this morning, they would probably see this as a minor improvement. But this is such a critical issue to this legislation, and I don't think we have found a compromise yet that works for everybody, and I think it's there. I think it could be found if there was some effort put forward by the government in good faith to make certain that on the tenure question, those who need it to operate the facilities they have, the province has an obligation to make sure that surplus wood is used to create investment in jobs in northern Ontario and across the province. It just has to be done. There are so many issues around tenure, and it's critical to these organizations.

You have the OFIA—and perhaps member companies have some different views; that would be probably normal—the umbrella group for these companies, clearly saying, “This doesn’t help very much; it might help a little bit, but it doesn’t help very much.” What it jeopardizes is their ability to get financing. It jeopardizes the jobs of their workers. It jeopardizes the forest, because you have to remember that these companies now are becoming primarily responsible for reforestation on their land. They have to spend all the money to draw up the plans. They have to do all the reforestation. They have to do all the work.

If you’re doing all the work, what you would hope to have is some knowledge that tomorrow you’re going to have the ability to harvest on that land. Without it, you are not going to find the kind of reforestation practices that you probably would want. Companies will do the minimum, not the maximum, because they cannot be assured that tomorrow the land will be theirs.

While this amendment may help slightly, it is surely not in the interests of northern Ontario and the people working there to create uncertainty over tenure, to create uncertainty over the investment climate. I’m just a little confused as to why the government would present this as a motion that is supported widely by industry, because I’m not sure that it is.

There are obvious problems. I think many people don’t understand what the problems are. There are surplus wood supplies out there that have been somewhat difficult to get at because of some tenure agreements, and that’s a problem. I think that’s one of the problems the government’s trying to address, to kind of force some of that surplus wood out into production. But I’m not sure, and neither are some of the companies that are said to have the surplus wood, that the wood is actually surplus and that the wood cannot be used or needs to be used in the future for the viability of operations already in place.

In the absence of criteria to establish that, which we have not seen forthcoming from the government, I can understand that industry is a little concerned that a government, a Minister of Natural Resources, has such broad powers to take away something that a company has worked so hard to maintain and spent so much money on to maintain.

1040

The parliamentary assistant has to understand, and I’m sure he does, that on any given limit in any given year probably only about 1% of the land or probably less than 1% of the land is actually being harvested. You might say that tending and reforestation, those sorts of practices, may go on on that land for over a period of 20 years, but most intensively in the first three or four years after the harvest. So at best there’s only about 10% of the land mass on a company’s limits that they’re doing much with at any given time.

I’m just guessing at those numbers, but it’s a relatively small percentage of the total land that they’re paying area fees for every year, that they are required to provide planning for every year for the five-year plans. They’re asked to do all that kind of work. To have no assurance that the money you’re spending will be productive to

your particular enterprise seven years down the road when it’s time to reharvest that particular area is of some concern. Certainly, if you’re talking jobs, you’ve got to have security of fibre supply.

We certainly have the problem that there are companies out there, and we all know of them now, that are running short of wood supply, existing companies. I’m sure the parliamentary assistant could list them for us if he wished.

We have to find a way to allocate surplus wood supplies that may be in other areas without this kind of draconian and huge ministerial discretion. There’s no kind of criteria set forth in this bill other than to say it’s a competitive process for allocating that surplus. The competitive process, how is that defined? Well, we don’t know. So essentially what you’ve got is a political decision by the minister of the day on who gets what.

I don’t think that assures anyone in this province that there will be a wood supply and jobs available to them when it is solely a political decision of where or who gets what and when. I just don’t understand why the government is pushing forward when you have one of the major organizations representing forest companies objecting to the way you’ve approached tenure. The parliamentary assistant shakes his head, but I can tell you, because I talked to them this morning, that they are; they are very upset with this.

So perhaps we should stand it down while the parliamentary assistant goes out and gives the Ontario Forest Industries Association a call. Their phone number is right here. I can give it to you, and you can ask them: “What is your stand? Do you like what’s going on here with tenure?” Then he could report back to us, because I think his view and their view are opposite, not in agreement.

Mr Wood: Reversing that, I think that Mr Brown should go out and check, because since the wording has been changed from “may” to “shall,” the indication that we’re getting is that it strengthens the long-term nature of the licence and that it is a big improvement over what it was a couple of days ago and a big improvement over what it probably was when the November 1 letter was drafted to you. This is the indication that we’re getting over the last 48 hours.

Mr Brown: What I’m indicating to you is what I know over the last hour. I have spoken to them in the last hour, and they may see this at best as a slight improvement to the situation, but they clearly believe that tenure’s a real problem.

I’m sure that you get the letters I get. We have major municipalities from all across northern Ontario objecting to this provision, objecting to the way tenure’s being defined. I believe even Thunder Bay next week will probably pass a resolution to that effect. We have Espanola and a number of others that have all indicated that this is a bad section of the bill.

They don’t like it. They think you should rethink it. They think you should come up with a policy that provides flexibility and yet enough certainty that the investment bankers and the people who have to put their dollars on the line to provide the jobs will do so, and I

cannot understand why the parliamentary assistant might not want to just go make that call; take, oh, a couple of minutes.

The Vice-Chair: Are you ready to vote on the amendment? All those in favour of the amendment to section 23, as moved by Mr Wood? Opposed? Carried.

Shall section 23, as amended, carry? All those in favour? Opposed? Carried.

We'll move forward again to section 30. Are there any amendments?

Mr Wood: Sixty-six.

The Vice-Chair: We could either take 66 or just simply continue until we get to 66. What is the preference?

Mr Hope: My understanding was that by the motion we opened both of those sections and were meant to deal with both of those sections. That was the agreement.

The Vice-Chair: One has to open one at a time. One cannot move both at a time. But in any case—

Mr Hope: No, you had asked—

The Vice-Chair: I'm sorry, Mr Hope—

Mr Hope: Excuse me, Mr Chair, you—

The Vice-Chair: —but I'm the Chairman here, okay?

Mr Hope: Yes, but I also—

The Vice-Chair: I'm sorry. You do not have the floor. If you want the floor, please indicate so.

Mr Hope: If you would check the Hansard, you will see it was clearly indicated that we asked for both sections to be opened and to be dealt with, and that's what I think we ought to deal with. We were asking for two sections of the bill to be reopened, which was given unanimous consent. Once we deal with those issues that we had unanimous consent to reopen, then we go back to section 31, which is then part of the regular process because we haven't dealt with those sections yet. But my understanding, when we dealt with the consent, was that the consent was to give both of those sections the opening and then to allow and deal with those amendments being now placed forward.

The Vice-Chair: Mr Hope, the consent has to be recorded as having been given on each section at a time.

Mr Hope: Did you ask for consent?

The Vice-Chair: I had asked for consent on section 23. There was an indication that—

Mr Hope: Was consent given to open both sections?

The Vice-Chair: Mr Hope, if you would permit the Chairman to speak.

Mr Hope: I guess we should check Hansard.

The Vice-Chair: Mr Hope, could you show some respect to the Chair, please?

Mr Hope: As soon as the Chair shows respect to individuals.

The Vice-Chair: Mr Hope, I call you to order.

What is the wish of the committee? Do you want to move on until we hit section 66 or do you wish to reopen 66 at this time?

Mr Wood: The feeling is that we should be opening

66 at this time, the same as the procedure we had done when we were going through clause-by-clause.

Mr Carr: Can I ask why? The reason I wanted to go back originally was just to clear it up and then proceed. Is there any particular reason that 66 should be opened at this time?

Mr Wood: Because of the manner in which we had dealt with 66 as a section, and we had two sections we wanted to open up with unanimous consent and deal with them on the same procedure that we dealt with them when we were going through clause-by-clause, this is the reason why we were asking to finish off section 29 and then deal with section 23 and then go on to section 66 and then revert back to section 31. This is the understanding I thought we were going to follow.

1050

Mr Carr: Actually, I think I was in the chair last time we did it, but I can't remember the reason we wanted to do 66 and go ahead last time. What was that, do you remember? Why did we do it last time?

Mr Wood: I guess it was the request of the government and the PC caucus at that time to proceed.

The Vice-Chair: In any case, is it agreed that we move to section 66 at this point?

Mr Brown: No.

The Vice-Chair: No. Okay. We will then continue with section 30. Are there any amendments to section 30? Any debate on section 30?

Mr Brown: Briefly, just so that we all understand it, this really is just a requirement that the crown gets paid its share before it becomes the property of anybody else. Am I reading that correctly? In other words, the wood remains the property of the crown until the dues or fees or taxes or whatever have been paid on them. I think that's what it says. Is that a correct phrasing?

Mr Wood: Yes. Ownership of forest resources shall remain with the crown until such time as everything is paid.

Mr Brown: That indicates that for non-payment, the crown could seize those resources on crown land at any time it so wishes. It doesn't say that there, but that is the reason for having that? You would presume that the crown could do that? I think later on it does speak to it.

Mr Wood: It spells it out pretty clearly there, I think, the ownership of the forest resources.

The Vice-Chair: Are we ready to vote, then? All those in favour of section 30? Opposed? Carried.

Section 31: There's an amendment, I understand, by Mr Brown.

Mr Brown: I move that section 31 of the bill be amended by adding the following subsection:

"Protected areas

"(1.1) The amendments authorized by subsection (1) include amendments that provide for the establishment of areas where timber harvesting is not permitted in order to provide for the fulfilment of other societal values."

The Vice-Chair: Do you want to speak to your amendment?

Mr Brown: You can almost tell that it's been two months, can't you, since we last chatted about this bill?

The reason we wish to put this is that if you read this section, before amending a licence, what we're attempting to do here is just make sure there is a little bit more discretion so that other values may be protected. I think that is, in a nutshell, what we're attempting to do.

Mr Wood: On that motion, I would just indicate that the amendment is not acceptable to us. The regulations will describe the manner in which licences can be amended.

Mr Brown: Maybe the parliamentary assistant can help us. As we last were in this continuing saga, we were told that there would be meetings with stakeholders regarding the manuals and regulations, and they were to take place I think about a month ago now. I'm wondering, did they take place, and are there significant changes or any changes to the manuals or to the regulations, as proposed, that the members have in front of us?

Just so people understand, we have over 1,000 pages of manuals and regulations to deal with here and we're at present under the assumption, as an opposition, that this is what we're dealing with. Could you indicate to us whether those regulations and manuals have been changed?

Mr Wood: Yes, the meetings have taken place, the workshops were being held and I believe the third draft of the manuals is being worked on. The cleaning up of any technical language, spelling mistakes and things of this kind is being worked on. We're talking about the third draft.

In answer to your question, yes, the meetings have taken place, the workshops have taken place and I believe they're in the third draft now.

Mr Brown: I guess the question, though—is there substantive change? I'm not talking about spelling mistakes or things like that. Is there some substantive change to those regulations and manuals that we as the opposition should know about that have come about because of those workshops that took place?

Mr Wood: I think it's probably closer to refining, rather than any major drastic changes that are taking place; more refining and getting down to what the final volume will look like.

Mr Brown: So basically what we have in front of us is really pretty close to the final product. There are not any substantive differences.

Mr Wood: My understanding is that they're not being changed like night and day, but they are refining them and all of the stakeholders are involved in giving us feedback.

Mr Brown: Of course, our job in opposition is to represent not just stakeholders but the public at large, and one of the things we have to do is to assess the changes because, as the government well knows, this bill is a shell, really. It is really defined by the regulations and by the manuals. It is a very permissive bill, with very broad powers to any Minister of Natural Resources and to cabinet. The nuts and bolts of the bill are almost totally defined in the regulations and manuals and that's precise-

ly the reason the ministry did circulate them back around August 1 to the members and, eventually, to stakeholders for comments.

My question I think is quite legitimate and I can understand that you would not know off the top of your head what substantive changes there are. But perhaps, by the time we meet next—it is two weeks from now when the next meeting of this committee will be held—you could perhaps ask staff if they could indicate—just substantive. We don't want to know about the change that we finally got a word spelled correctly or that the grammar was a little bit bad or whatever, but if there's a substantive change being contemplated, that we're aware of it so we can make reasonable comments and perhaps check with some other people about those changes to see if that's accommodated their particular points of view so we might be able to validate it independently of the government.

I think our experience this morning seems to indicate that the news we're getting from some interest groups is being characterized differently by Mr Wood and by Mr Brown.

Mr Wood: I think, in all fairness, I don't see any reason why we can't comply with your request.

On your comments that the Liberal opposition party has to represent everybody in Ontario, I think the NDP government also has a responsibility to represent everybody in Ontario and this is what we're trying to achieve in addressing a bill that is being brought forward that hasn't had any major changes in 42 years.

We're saying yes, we're willing to move forward and address some of the concerns that have been out there for the last 15 years. In doing that, we know we cannot satisfy 100% of the people, the same as the Liberal opposition cannot satisfy 100% of the people, but our goal is to achieve as close to that as possible.

1100

Mr Brown: I didn't mean to give the impression, Mr Wood—it wasn't very confrontational; it is just one of the roles of being in opposition. It has been a traditional role in the parliamentary system that our job is to ask the questions, to bring other points of view to light and to make sure that every point of view possible gets at least its day in the sun so that people can evaluate whether the choices being made by the government—and by the opposition, for that matter—are reasonable ones under the circumstance. I'm just pointing out that given the volume of material that accompanies this particular piece of legislation, it would be very difficult for the opposition to understand this without the assistance of the bureaucracy that provides particular information on how the manuals substantively may have been changed to accommodate some views out there.

Mr Wood: Mr Chair, I think I indicated that this is a fair request and we'll work on it.

Mr Brown: Could you ask the bureaucracy if they would also send us the calls for proposals so that we can evaluate the criteria out there?

Mr Wood: Yes.

Mr Brown: It's making our life a little more difficult

by just not having that information and we're maybe wasting some time we don't need to waste if we had that and we could understand that.

Mr Wood: Yes.

The Vice-Chair: Are we ready to vote now? All those in favour of Mr Brown's amendment to subsection 31(1.1)? All those opposed? The amendment is lost.

There's a further Liberal amendment to section 31?

Mr Brown: As I came out with all of my glorious paper, I came out without my explanation of amendments this morning.

Mr Bisson: You should have that right at the top of your head.

Mr Brown: I know I should, Mr Bisson.

I move that subsection 31(2) of the bill be struck out and the following substituted:

"Application

"(2) Subsection (1) does not apply to a licence under section 23."

Now you're looking for an explanation, I'm sure.

The Vice-Chair: If you want to give one, but Mr Wood might like to indicate what his position is.

Mr Wood: Yes, I can be helpful in the fact that we're not going to be accepting that amendment, if that helps you.

Mr Brown: Regardless of how convincing I am? I'm not shy.

The Vice-Chair: Are we ready to vote? All those in favour of Mr Brown's amendment? Opposed? The amendment is lost.

There's a further amendment to section 31 by the government.

Mr Wood: I move that section 31 of the bill be amended by adding the following subsection:

"Considerations

"(1.1) In determining whether to amend a licence under this section, the minister shall take into consideration,

"(a) any reasonable business requirement of the licensee;

"(b) any collective agreement to which the licensee is a party and which affects the harvesting of the forest resources in a management unit to which the licence relates;

"(c) values identified in the forest management plan for the management unit to which the licence relates, including values relating to plant life, animal life, water, soil and air and social and economic values including recreational values and heritage values; and

"(d) Any other matter the minister sees fit to consider."

Industry and labour had some concerns out there that a similar provision was not carried forward from the Crown Timber Act and that their business requirements would not be considered. Labour was concerned that appropriate consideration be given to collective agreements out there. The minister wanted to ensure that the amendment procedures did not exclude proper consideration of other values that were being derived from the

crown forest. So it's the result of both the industry, labour and other concerns that have asked us to move in this direction, and this is the reason for the motion.

Mr Brown: I think it's a positive step that this particular amendment is being put forward. I can understand that business is very concerned, as are labour groups; they want to make sure that business considerations are taken into account by the minister.

We are still a little bit—more than a little bit—upset that the criteria remain so loose. If you look at (d), "any other matter the minister sees fit to consider," that has to be the largest global statement I have ever seen in terms of giving a minister discretion. I'm wondering, if the parliamentary assistant could indicate to us, why the criteria would have to be so broad as to include a statement that would be that all-encompassing.

Mr Wood: It's enabling legislation. There are situations out there that might have to be addressed by the minister, and this is the reason clause (d) is there. We're in changing times, we have been over the last thousand years, and we know that over the next number of years we're still going to be in changing times. So this will help to address into the future.

Mr Brown: This is really a question of tenure again, as the minister has a huge discretion here to change tenure. This section that you're asking to be placed in the bill says the minister will take into consideration the first three elements, but if I'm someone who needs more wood supply, if I'm someone who would like to start a new venture, if I'm someone who has identified surplus wood on my own limits and we need an amendment, if you're in any of those cases, we come back to some kind of criteria, because Mr Carr may also be looking at using that particular wood and he may have a proposal that would cause an amendment to be made to limits, to licences.

Both Mr Carr and I would want to know in a straightforward way what the criteria are for the decision the Minister of Natural Resources is going to make so we could be assured that the proposal will be evaluated fairly and that Mr Carr and I would both be treated equally before the minister.

This kind of vague, all-encompassing "any other matter the minister sees fit to consider" may come from left field for somebody making a proposal. It will certainly cause great consternation, I would think, among people who already have licences and are going to have them amended to take something away arbitrarily.

1110

I'm going to vote for this amendment. I'm just wondering why on earth we would want to provide that kind of huge discretion to a minister. It takes all opportunity for public review away because he can say, "I considered" whatever. It would seem to me that some criteria for how this is going to happen should be spelled out. Maybe staff could help. In the regulations, are you contemplating spelling out "any other matter the minister sees fit to consider"?

Mr Wood: We have (a), (b) and (c) that spell out specific reasons, and there might be another reason. I

could probably name off 50 or 60 of them, but I don't think it would be helpful in convincing you or other people that that reason would apply to that licence. I'm sure there are other reasons that the minister might want to consider in terms of whether to amend the licence under this section, and use that reason as a consideration in the dialogue that's taking place. I don't think it should be restricted, and you're saying it should be restricted. I disagree with that.

Mr Brown: I don't see why it shouldn't be. One of the things that makes everybody in the investment community and in business very unsettled about this whole bill is the tenure aspect. They are concerned that tenure is more up for grabs than it's ever been, and if you're investing the millions of dollars it often takes to be in this business to create those jobs, you've got to know you've got fibre supply. It seems to me that when you're talking about amendments to licences, the more certainty you can put out there, the better off you are.

I would point out to the parliamentary assistant that his amendment just says you have to take it into consideration; these are the factors you must take into consideration. It doesn't mean the minister's got to decide only on the business requirement or only on what labour's collective agreement might be; they're just factors that have to be taken into consideration. I think people are very uncomfortable with the breadth of the statement, given the fact that we have not been provided with the information we asked for some two months ago. I'm just registering my concern on behalf of those people who work in the industry that this maybe creates more uncertainty. He or she might consider anything.

Mr Wood: I don't know how I'm going to be able to convince you.

Mr Brown: You're not.

Mr Wood: One of the reasons for this is to make sure it doesn't exclude proper consideration for something else that might come out without having to spell out a long list of reasons. We don't want to necessarily exclude anything the minister may see fit to consider when he or she is involved in amending it.

Mr Brown: I'm certain the government takes that view, but for the people either hoping to get tenure or holding tenure now and apparently going to lose some of it through a change in their licence, this creates some uncertainty. But it's an improvement so, as I said, I'm not going to oppose it other than to raise the question of tenure again.

The Vice-Chair: That probably leads us to the vote. All those in favour of the amendment to section 31 moved by Mr Wood? Opposed? Carried.

Are there any further amendments to section 31? Seeing none, shall section 31 carry, as amended? Opposed? Carried.

Section 32: Mr Wood, you have an amendment.

Mr Wood: I move that subsection 32(3) of the bill be struck out and the following substituted:

"Applications of subsection (2)

"(3) Subsection (2) does not apply in the following circumstances:

"1. A transfer of shares by a corporation that is a licensee if the name of the corporation does not change and the control of the corporation is not transferred to another person.

"2. An amendment to the articles of incorporation of a corporation that is a licensee to change the name of the corporation.

"3. Any other prescribed circumstances."

This motion brings into the act two conditions where a transfer was not to apply that had previously been noted in the draft regulations. The rationale is that the industry wanted assurance for investors that specific changes to ownership that were deemed not to be cause for transfer of a licence were firm commitments.

The government had already agreed that these two situations would not invoke the requirements for transfer provisions. This is the reason for bringing forward the motion. The government agreed that placing them in the act did not present any issues, and it would further bolster investor confidence in the security of raw material supply for the licensee. We're talking about sending a strong message out to the investment community that these conditions for the transfer of shares by corporations out there—we feel satisfied that transfer of a resource licence application will be addressed by this motion.

Mr Carr: I'm wondering, as I guess some of the other members are, about number 3, when you talk about "any other prescribed circumstances." There must have been some reason for that. What would be an example of some of the circumstances that we would need to have that in there? Can you think of any? Why is that in there? What circumstances are we talking about?

Mr Wood: I don't have precise examples at my fingertips right at this moment, but we have spelled out two reasons in numbers 1 and 2 and there could be other circumstances that the minister would have to address.

Mr Carr: Not being a lawyer, why wouldn't we even just take out 1 and 2 and just say "Any other prescribed circumstances"? Why do we name some and not others and then make it all-inclusive? Not being a lawyer, I look at this stuff and I say: "No wonder these guys get all this money for doing this stuff. They create all these things"—no offence to the lawyers in the room, who I'm sure won't take offence at it, but to me it looks like a pretty silly thing to put some circumstances in and then say, "Oh, it doesn't matter, it's everything anyway." I just wondered what some of the circumstances were. Somebody, somewhere, one of the great legal minds, must have said, "Here's a circumstance, but we can't put it in because we maybe can't write it that way." I just wonder what any prescribed circumstance may be. You don't have any idea?

1120

Mr Wood: My understanding is that the two would cover probably 90% or more of the circumstances and then the rest would be covered under regulations. So under, "Any other prescribed circumstances," you're talking about a very small percentage of situations and they would be done in the regs.

The Vice-Chair: Any further debate? All those in

favour of Mr Wood's amendment to subsection 32(3)? Opposed? Carried.

Mr Wood: I move that subsection 32(4) of the bill be struck out.

There's no reason for that section to be in there. That is the reason. The intention was to give the minister an avenue to free up forest resources, but it's not needed and it's being withdrawn.

Mr Carr: Not that it matters much, but can I ask why this was included originally? Now that we're taking it out, it doesn't matter, but what was the rationale originally for putting something like that in?

The Vice-Chair: Ask the lawyer.

Mr Wood: You're asking why it was put in there in the first place?

Mr Carr: Yes. You said, "There's no reason, so that's why we're taking it out." How do these things get in when there's no reason?

Mr Wood: We're saying it's not needed. It doesn't necessarily have to be in there, based on the legal interpretation we're getting. During the original drafting of the legislation, the feeling was that it should be there, but it's been requested by industry and a number of other groups that it be removed and we've agreed to eliminate it from the legislation.

Mr Brown: We have a similar amendment.

The Vice-Chair: Very similar.

Mr Brown: Exactly the same, and they're actually both out of order, aren't they, Mr Chair?

The Vice-Chair: No.

Mr Brown: They're not out of order? Perfect; that's great.

Just to help Mr Carr, I presume it was placed in the legislation originally to provide some flexibility as licences turned over, to provide additional allocations to perhaps another licensee. What they were doing was restricting it to a downsizing of 5% of a licence. I don't think it's necessary. If a licence is being transferred or assigned or charged or whatever, I suspect that could happen anyway. The plus side to industry would be that it is restricted to 5%, the way it's printed, and the downside is that it could be 5%. To make Mr Wood's argument, I guess nobody really knows why it's here.

The Vice-Chair: As we all seem to be in favour of striking this out—

Mr Brown: Sometimes the discussion changes our minds.

The Vice-Chair: Are we ready to formalize this? All those in favour of Mr Wood's amendment? Opposed? Carried.

Seeing that Mr Brown's amendment is exactly the same, we have already voted on it.

Any further amendments to section 32? Seeing none, shall section 32 carry, as amended? Opposed? Carried.

Section 33: a Conservative amendment.

Mr Carr: I move that section 33 of the bill be struck out and the following substituted:

"No interest in land

"33. A forest resource licence does not confer on the licensee any interest in land or any right to exclusive possession of land, except as in the opinion of the minister necessary for the cutting and removal of the timber thereon and the management of the licensed area and operations incidental thereto."

Mr Hodgson had wanted to speak at length on this, but in the interest of time, maybe the parliamentary assistant could just cut through and let us know what his thoughts are on this particular amendment and whether the government will be supporting it.

Mr Wood: First of all, no, we will not be supporting it. All the proposed motion does is add "except as in the opinion of the minister necessary for the cutting and removal of the timber thereon and the management of the licensed area and operations incidental thereto." Our argument is that we don't need that in there and we're not accepting your motion as an acceptable amendment to the legislation.

Mr Brown: I'm trying to think, Mr Carr, of an example where this would be helpful to the holder of the licence.

Mr Carr: I think Mr Hodgson had some examples. It was his motion that was put forward, but unfortunately I didn't get a chance to speak to him about some of the examples.

The Vice-Chair: It has to remain a secret.

Mr Brown: Mr Carr, we might be wise to ask the government if we could stand this down until Mr Hodgson, who I know is occupied elsewhere, can come and put his case.

Mr Carr: Mr PA?

The Vice-Chair: Are you doing that, Mr Carr?

Mr Carr: I see him shaking his head, so I think it's pointless. Either that or he's got an itch.

The Vice-Chair: Any further debate? If there's no further debate, shall Mr Carr's amendment carry? All those in favour? Mr Carr, are you in favour?

Mr Carr: I was sleeping. I was looking at the next one; I think the next one's mine too.

The Vice-Chair: Opposed? The amendment is lost.

Mr Carr: In the last minutes of a hockey game, when you know you're going to lose, you just leave the arena.

The Vice-Chair: Shall section 33 carry?

Mr Brown: I just have a—

The Vice-Chair: Sorry. Further comments on section 33?

Mr Brown: I understand what the section says, but I'm not really sure why we need it, why the section's there in the first place. The licence the company has would obviously tell you it's managing an area, that it's responsible in an area, but it would be a giant leap to believe it had any actual interest in the land, in the legal sense.

Mr Wood: I think this section is very similar to a tenant and landlord. The tenant is operating on the land and using the resources on the land, but doesn't necessarily have the land itself.

Mr Brown: I understand that, but I'm wondering why we even have to say it.

Mr Wood: Our experts in drafting the legislation are saying it should be in there, and the legal opinion is that it should be in there. As a result, it's there for that purpose.

1130

Mr Brown: I don't like us putting any more sections in than we need to. Maybe legal counsel could help me with this. Would the legislation be any different if this section weren't in the bill?

Ms Sibylle Filion: I think that question would be better put to legal counsel of the ministry.

Mr Brown: Why have a section if we don't need it?

Mr Wood: In our opinion, we need it. That's why it's in there.

The Vice-Chair: Mr Wood tried to respond. Is there any further debate? All those in favour of section 33? Opposed? Carried.

Section 34: Any amendments to section 34? Any debate on section 34?

Mr Brown: I might just ask the parliamentary assistant about this section. In the event of a sale of land within a licensee's area, in some cases that may take productive timber out of the licensee's area. Is there any compensation whatever to the licence holder for that taking place?

Mr Wood: It refers back to section 23: "sell, lease, grant or otherwise dispose of land that is subject to a forest resource licence."

The Vice-Chair: Are you reading, or is that your comment?

Mr Wood: I'm just reading to myself.

The Vice-Chair: I just want to make sure Hansard can follow.

Mr Wood: There were no amendments brought in to section 34.

Mr Brown: No, but just because there were no amendments brought in doesn't mean we don't have a concern or that people aren't interested. I think it's a legitimate question. Does this section permit the ministry to reimburse a licence holder for some land that is now taken out of that person's licence?

Mr Wood: I'm waiting for further clarification, but the way I see it, it doesn't spell that out, and unless it were spelled out, I don't believe it would be the case.

Mr Brown: It's possible under this section for the ministry to sell land or lease land or otherwise grant land to an individual or corporation, which could conceivably have a dramatic effect on a harvesting operation in a license area. It sometimes doesn't take a very large piece of land to take a fairly large chunk of productive forest out of commission because of varying setbacks that might be required to stay away from whatever the use of private land now is.

Mr Wood: I think section 34 is to clarify the intent of the act in terms of the use of the land. I understand that in the FMAs, which will become renewable licences

for 20 years, renewed every five years, there is a clause in the FMA agreement that applies when large areas are involved, but there is no compensation in general for small areas of land. Hopefully, that's clarified it.

Mr Brown: Could you help me with present government policy, then? Is present government policy encouraging the sale of cottage lots on crown lands or leases on crown lands? Is it the policy of the government to promote those? This impacts on this section. If it's the policy of the government to do that, obviously there will be more impact on the people who have the licences if you're actively either encouraging or discouraging the practice of selling crown land.

Mr Wood: To be honest with you, Mr Brown, there are requests from individual people out there to look at the regulations that were brought in in 1983 by one government and then further amendments brought in in 1987, I guess to control cottages and lots and that kind of—there are always requests from people who would like to see some changes. But as far as the government policy is concerned, as far as I know, the decision hasn't been made to make any changes at this point in time.

Mr Brown: If there are no changes, what is the policy?

Mr Wood: It's the policy that was brought in by the Conservatives in 1983 and again the Liberals in 1987, I understand.

Mr Brown: Well, some of us don't remember all that. Could you just—

Mr Wood: They remind me of that when I'm out on the street.

Mr Brown: "And we've only been here for four and a half years and haven't had time to change it." That's what you tell them, is it?

Mr Carr: And people are going to vote you back in because of it, right? All the more reason to get you back in.

The Vice-Chair: Have we concluded debate?

Mr Brown: I was just wondering if I could get a clarification, but if I can't, that's fine.

The Vice-Chair: All those in favour of section 34? Opposed? Carried.

Section 35: Mr Carr, you have an amendment.

Mr Carr: I move that section 35 of the bill be amended by adding the following subsection:

"Existing licence

"(1.1) A licence shall not be granted in respect of land that is already subject to an existing licence without consultation with and the approval of the existing licensee."

I feel, as does our critic, very strongly about this motion. We've got debate within the industry itself about who's going to benefit or be hurt by that, because there will be some companies that will gain at the expense of others.

What I go back to is the principle of fairness. If I were one of the companies that was going to benefit by getting a licence, I guess I wouldn't feel this way, but as legisla-

tors we need to very clearly talk about the issue of fairness. I think this one is pretty self-explanatory. You should not make any changes without consultation with and the approval of the existing licence holder.

I recognize that if this doesn't pass, what it will mean is that the government will have complete control to make the changes necessary. I feel very strongly on this, and I hope the government will support it.

Mr Wood: I was getting further into it with our government motion. We won't be accepting the PC motion. What we're looking for is the reaching of an agreement, the settlement of a dispute, prior to issuing a second licence on it, that the two parties would come to an agreement before a second licence would be issued. The feeling is that we address that in the amendment we're bringing forward as we get to it in subsections 35(2) and (3).

Mr Carr: May I ask where you see the problem, maybe an example? What do you see that could occur that would create a problem so that you wouldn't want this to pass? Give me an example of what you fear may come up. Are there any examples you could give to explain why you wouldn't support this motion?

Mr Wood: Our fear in terms of the amendment that has been brought forward by the third party is that it would severely limit the minister's authority to ensure that third-party licensees are treated fairly. This is one of the concerns we have with the amendment you have brought forward. Third-party licensees could be seriously affected and not treated in a fair manner.

1140

Mr Carr: We go back to the principle that the other two parties could get an agreement that's more fair. I believe negotiated agreements between two parties will be fairer in the end than a government-imposed one. I know you're talking on behalf of the government and saying, "We'll be fair." I think the way we've put it is a lot fairer in terms of consultation and approval, if all three of the groups that would be involved can come to some type of agreement. Then we would have fairness.

It's not dissimilar to what happens in any type of labour agreement. When it's imposed on them, both sides feel hard done by. When you negotiate something, both parties in the end give a little bit and take a little bit and you get an agreement that is fair. It's a principle that I think the NDP has stood for for many years in the labour movement. This is similar between companies, that a negotiated agreement would be much more fair than a government-imposed one. I may be wrong, but the principle is similar to what happens in labour negotiations. Any forced settlement would be very difficult.

Notwithstanding the fact that the government says it will be fair, I don't believe it would be. I believe any type of negotiated settlement is much better. That's what this motion attempts to do, but I take it we probably won't win this one. It comes down to the issue of fairness, and I get worried any time governments say, "We will be fair in what we're doing." I think the fairest way to do it is to allow the parties to negotiate a settlement, which they would do if this motion was passed,

and they would get some type of agreement that both sides could live with.

Mr Brown: I see we have a somewhat similar amendment. I suppose there's not a whole lot of sense in us putting ours after Mr Carr's, so in the interest of time perhaps I could speak to this.

Mr Carr: And I want to speak to yours, but you can speak to this one, because yours is a little different.

Mr Brown: Yes, it is.

Mr Carr: I like yours too.

Mr Brown: Again we come back to the tenure. The interesting thing I think we should know here in 35 is that the licence has already been granted, from what I can gather. Is that correct? We're talking about a situation where perhaps I have the limits for softwood on this and somebody else has the limits for hardwood. We're talking about the same area but we're talking about different species. In that instance, what Mr Carr is suggesting here is that we've got to get those two parties together to negotiate about who pays for the roads, who pays for the area fees, whose share of the renewal is what, all those various issues.

The advantage of having the two parties together negotiating is that they can often come to an agreement outside of the legislative requirements. They can also find business ways of maximizing the use of equipment, maximizing the use of manpower, maximizing all those good things.

I'm speaking in favour of Mr Carr's amendment because I think he's hit the nail on the head. What you want is a negotiation process that gets both parties together to deal with the very real issues on a particular area of land that may be licensed to two or maybe three or more parties to harvest different species and then regenerate, I presume, different species.

Mr Wood: I don't know whether I can help to satisfy you. Two concerns: One of our concerns on the PC motion is that it says "without consultation with and the approval of the existing licensee." We've made clarification in the amendment we've brought forward on subsections 35(2) and (3), which puts a mechanism in place before the licence is issued. We feel it will deal with the situation better than this PC motion or the one the Liberals have brought forward. We're addressing it, but we're addressing it in a different manner, Mr Carr and Mr Brown.

Mr Carr: I'll give you an example of a negotiation and I'll show you exactly how it works. I have absolutely no power and authority because you have the votes and can win, but I would withdraw our motion if you agreed to support the Liberal motion, which is a bit of a compromise. It doesn't go as far with the approval but it does say there will be some type of consultation. Unless I'm very surprised, I have no power and I'm going to lose the vote anyway; you hold all the cards and you'll proceed with your own. This is just a typical example of where, if you don't have equal power, one party—in this case I probably won't get what I want. Ours went a bit farther than the Liberals', but as a compromise, if the parliamentary assistant would agree to the Liberal motion, I would

withdraw our motion. We'll just see how negotiations take place in the real world here.

Mr Wood: We'll probably have to exercise the democratic right given by the vote held back in 1990. We're continuing the vote through the amendments as we go through—

Mr Carr: We should have a recount, because I can't find anybody who voted NDP.

Mr Wood: The people of the province spoke and they expect us to continue—

The Vice-Chair: Before we go too far into the last election, any further comments on your amendment, Mr Carr?

Mr Carr: You see what happens when there is no power or authority. We give a little more power to the groups because this is a typical example that if you don't, things can be rammed through without any consultation. Ours went far enough to try to make the field level. The Liberals' at least makes it so that there's an appearance of it being level, so that there is time for consultation. You see what happens in negotiations if you don't have any power and the authority. The one party gets, if you'll pardon the expression—well, I won't use that expression, but just like happened to me just now.

I will still proceed and vote for this, but I guess I know the outcome so there's no sense carrying on any further discussion.

Mr Brown: Mr Carr makes a good point. Mr Carr's motion may not restore the balance, and I'm not particularly sure that even the amendment I'm about to put does that very well. But the difficulty in all negotiations is achieving a balance, making sure that both parties come to the table more or less equally so we can get a fair and reasonable result that probably doesn't make either party totally happy but is acceptable to both parties and is negotiated out there on the ground. Mr Carr's and probably ours do not exactly do that, but they're attempts to bring some balance into the equation.

The Vice-Chair: We're ready to vote on Mr Carr's amendment. All those in favour of Mr Carr's amendment? Opposed? The amendment is lost.

Mr Brown, you have a further amendment.

Mr Brown: I do have an amendment that I'd be pleased to put, but just before I do that I'm wondering if we could have an adjournment, if that would be acceptable. I shortly have an appointment with officials of the ministry to discuss another piece of legislation.

The Vice-Chair: Is there unanimous consent?

Mr Bisson: Let's finish this section first. I think we can finish it.

The Vice-Chair: I don't see unanimous consent. We will have to adjourn very soon anyway, as we have to vote in the House. But with your permission, I will continue until the bells ring.

Mr Brown: I could make a motion, but I was hoping we could be happier than that.

Mr Bisson: We're almost finished the section.

The Vice-Chair: Are you just making your amendment now?

Mr Brown: I will place our amendment.

I move that section 35 of the bill be amended by adding the following subsection:

"Existing licence

"(1.1) A licence shall not be granted in respect of land that is already subject to an existing licence unless the minister has given the existing licensee an opportunity to discuss the proposed licence."

1150

The Vice-Chair: We probably had a fair discussion earlier, but I think Mr Carr did want to speak to this.

Mr Carr: I did originally, and then I talked to my own. My point was made: If the balance of power isn't there, there's absolutely nothing you can do, no persuasion, and people will run through and proceed the way they want. In this case, with the backing of the ministry, all the things Mr Brown talked about will occur. I thought as a bit of a compromise we might be able to agree to this one but, having no power, we're going to see what's going to happen. I suspect we're going to lose this one as well. I think it's too bad, but I suspect I know what is going to happen with this motion as well.

The Vice-Chair: Further debate? All those in favour of Mr Brown's amendment? Opposed? The amendment is lost.

Mr Wood: I move that subsections 35(2) and (3) of the bill be struck out and the following substituted:

"Agreement between licensees

"(2) Before more than one forest resource licence is granted in respect of the same land, the affected licensees and prospective licensees shall endeavour to agree on the matters prescribed by the regulations and, in the event of a dispute, the minister may direct that the dispute be resolved in accordance with the procedure prescribed by the regulations.

"Forest management plan

"(3) An agreement entered into under subsection (2) or a determination made in accordance with the procedure prescribed by the regulations shall be consistent with the applicable forest management plan."

We have had a discussion in the two previous motions. The reason for not supporting the two previous motions was our feeling that eliminating subsections (2) and (3) in the act and substituting these new subsections (2) and (3) will address the concern we have about more than one licensee working on it, and the process for coming to an agreement will be a fair and good way of doing it.

Mr Carr: The only thing I will point out is that the ministry ultimately in the end can direct a settlement that will be fair, and I'm sure that probably will happen. I just hope it will in the occasions that arise. I hope the ministry will take this particular power it has, as I know it will, very, very seriously, because this will give it the power to intervene and settle the dispute. I hope at the end of the day, when we have some of these disputes that arise after years of having this in, that all the parties that are going to be affected will still, down the road, feel this issue has been addressed fairly. We won't know, but I'm certainly hoping they are, for the good of this province.

Mr Brown: I've been busily trying to speed-read the regulations this particular amendment—

Mr Carr: You couldn't have read them if you started in the summer. We didn't have them.

Mr Brown: Well, this particular section. You're right, Mr Carr.

The Vice-Chair: Mr Brown, address the Chair.

Mr Brown: I might ask just of the parliamentary assistant, is there any substantive change to the regulations which really spell out how this system works? Do we know?

Mr Wood: My information is that this is really just a housekeeping amendment to spell it out a little more clearly. As far as changes in it are concerned, it doesn't look like there are any major changes that have been made to the regulations.

Mr Brown: Thank you. So I can be relatively assured that this is more or less pretty close to the way the regulations will read.

Mr Wood: Pretty close.

Mr Brown: I would just bring to the attention of the committee that the minister has extraordinary power here to impose a settlement, and imposed settlements usually make no one happy, particularly. I wouldn't want to mention the social contract, but some of us have thought of it. Really, the settlements that work best are the settlements that are freely come to between two parties.

I am reluctant to use the word "fair." I think it is a four-letter word, actually. It means too many things to too many people, and it's probably the most overused word in the political lexicon. But I would just point out that if you read the regulations, the last one says:

"Where a holder of the existing licence refuses to sign an agreement as required under subsections (1) and (2) within the period of time indicated by the minister, or the executed agreement is not forwarded by either party to the minister or to an officer of the ministry, the minister shall amend the existing licence pursuant to subsection 35(4) of the act."

The minister can just say, "This is the way it is gonna be," bang. I guess all of us have some concerns, or should have some concerns, about that very broad-reaching power of a minister to impose very strict economic conditions on people. I would just note that.

Most of the regulations meet with my approval, as there seems to be a process in place to mediate a dispute. But all of us in a democracy get a little concerned about giving any minister of the crown the ability to just absolutely make a decision to invoke a certain settlement. It doesn't appear to have to go to cabinet; it's a decision of the minister only, I believe and doesn't require an order in council. That is an exceptional amount of authority to vest in any particular person.

Mr Wood: I think you've raised a concern that might affect maybe 0.25%, less than 1%. I mean, 99% of the participants, I'm sure, are going to want to enter into a process that leads towards some type of agreement.

In the event that they do refuse to enter into a process and refuse to participate in any discussions, sure, the

minister would have some discretion to be able to bring those two parties to have discussions, but we have all kinds of agreements that are out there and working right now. As a matter of fact, over the last six months we have had over \$400 million of investment that has come in basically on agreements that are being worked out between forest industry companies, creating probably up to 2,000 permanent jobs and a lot of construction jobs. There are agreements are being worked out as we speak.

But in the rare situation where the people have refused to get involved anywhere in the process, the minister would be able to try to bring them together.

Mr Brown: This is more than trying to bring them together. After he or she has tried to bring them together, the minister can absolutely dictate the settlement. I think you, particularly with your background, know how well anything that's dictated by one side or the other generally works, and you also know that often you have some difficulty getting parties to negotiate if one of the parties believes the eventual arbitrator of the dispute favours their position and they therefore have no reason to negotiate in good faith. It sometimes causes as many difficulties as it resolves. I think we've all seen people who, on one side of an issue or another, believe the decision-maker will favour them and that therefore coming to a negotiated settlement is not in their interest.

Mr Wood: Are you talking about baseball and hockey?

Mr Brown: I'm talking about baseball and hockey.

Mr Carr: They should be essential services.

The Vice-Chair: Can we get back to the motion?

Mr Brown: The parliamentary assistant did make a good point. I believe there are agreements being made out there right now, and that's the normal course of events. What my party is saying is that that's the way we think business should be done, in terms of free and open negotiations to decide these issues rather than the imposition of a settlement by the government.

Is the government considering in the regulations any kind of review of the minister's power in this case? Is there any kind of appeal, by an aggrieved party, of a minister's decision? Is that being considered?

Mr Wood: Anything can be appealed. We see all kinds of appeals going through on all different issues.

Mr Brown: Who would you appeal to? I'm not reading from your amendment; I'm reading from the regulation your amendment refers to.

Mr Wood: You're talking about a phantom situation out there that we don't know about.

Mr Brown: One of the problems in this job is that this is what we're expected to do: try to guess what the implications of any particular piece of legislation are going to mean to people. We have kind of a law of unintended consequences. Often the best-laid plans of mice and men come to naught as an unexpected consequence comes from what we as legislators thought was a really good idea. What we're required to do if we're doing our job correctly is to try to see into the future, try to understand what the implications of a particular policy might mean. We often don't do that very well. I'm just

asking: Is there any appeal to this?

The Vice-Chair: If we've finished discussing it—

Mr Brown: I'm just wondering if somebody can tell me if there is an appeal mechanism of the minister's decision. Can you ask for judicial review of the minister's decision, for example?

Mr Wood: I'm sure there is appeal there, but I don't have all the answers at my fingertips of what the procedure would be.

The Vice-Chair: Are we ready to vote on the amendment?

Mr Brown: No, I don't think so.

The Vice-Chair: Then we'll have to continue the debate this afternoon. This committee stands adjourned until after routine proceedings this afternoon.

The committee recessed from 1203 to 1628.

The Vice-Chair: We are continuing clause-by-clause consideration of Bill 171. This morning we adjourned the debate on the amendment to section 35 and Mr Brown had the floor. Mr Brown, do you want to make further comments?

Mr Brown: No, I think we've said what needs to be said.

The Vice-Chair: Okay. Are we ready for the vote then on the amendment moved by Mr Wood? All those in favour of Mr Wood's amendment? Opposed? Carried.

Any further amendments to section 35? Seeing none, is there further debate? Shall section 35 carry, as amended? Opposed? Carried.

Section 36: Are there amendments?

Mr Wood: I would once again ask for unanimous consent to open up section 66, an amendment.

The Vice-Chair: At this point?

Mr Wood: Yes.

The Vice-Chair: So you want to move to section 66 at this point?

Mr Wood: Yes.

The Vice-Chair: Is there unanimous consent to move to—

Mr Brown: No.

The Vice-Chair: I'm sorry, there's not unanimous consent.

We're moving to section 36. Any comments? Any amendments? If not, shall section—

Mr Brown: One second, Mr Chair. You've got to give us an opportunity to read it.

The Vice-Chair: Shall section 36 carry? Carried.

Section 37: I see a Liberal motion.

Mr Brown: I move that section 37 of the bill be amended by striking out "or without" in the second-last line.

What we are attempting to do here is make sure that we have the licensee's consent, which is reasonably clear. This section says, "Crown charges in respect of forest resources authorized to be harvested or used for a designated purpose by a forest resource licence shall be paid by the licensee whether the resources are harvested or

used by the licensee or by another person with or without the licensee's consent."

How can the licensee have to pay for charges where another person has done something without his consent? It just doesn't seem logical to us. Maybe there is a reason for this, and if so, the government could clarify that for us.

Mr Wood: The section we're referring to is a provision that was made in the Crown Timber Act, and we're saying that it should be carried forward into the Crown Forest Sustainability Act. As a result, we will not be supporting your particular amendment.

Mr Brown: You are asking the licensee to pay the crown charges even if another person, without any consent of the licensee, has removed the resource. I'm really having some difficulty understanding that. Certainly if the licensee has consented, that makes perfect sense, but if the licensee has not consented, I can't understand why that's there. I think maybe you could help me if you have a little bit better explanation than that it was there before.

Mr Wood: It was there before, and it's very difficult to prove if resources were removed with the licensee's consent after resources have been removed and sold. So what you'd end up with is a legal argument in all disputes of harvested resources, and this is the reason we're not supporting the Liberal motion.

Mr Brown: You would be in a situation, I think, where one person would be conceivably charged with theft, he has taken a resource that is not his to take, and yet the licensee, the person who's had the resource taken from him, is now required to pay crown dues. Isn't that the situation we're talking about? It seems to me a rather curious way to treat the victim.

Mr Wood: In our interpretation of the wording of your motion there, it would cause nothing but arguments and disputes where the resources had been removed and had been sold. We have an amendment to section 37 as well, which will be coming up a little bit later, that we think will clarify a lot better what our intention is.

The Vice-Chair: Are you ready to vote on this amendment?

Mr Chris Hodgson (Victoria-Haliburton): No, I'll speak to this. I'd just like to say that I'd support my colleague Mr Brown's motion. It's very simple and straightforward, just taking it out, for the reasons that he mentioned. The government's motion basically does the same thing, is that what I'm being told? It takes a two-paragraph addition. There's got to be a difference between the two. If the parliamentary assistant could help me here. The Liberal motion calls for taking the words "or without" out of it. The government motion, which will be made in a few minutes, goes on at some length. Am I being told that it's essentially the same thing, or is there a difference?

Mr Wood: I think when we get into the amendment that we brought forward under section 37 it'll clarify it a lot better than what the Liberal motion is trying to do, and that's one of the reasons why we're not supporting the Liberal motion as brought forward. I have some new

wording in our amendment which will be coming up under 46-B, section 37 of the bill.

Mr Hodgson: I can see that the last part, "or by another person with the licensee's consent," if you take out the word "without," that's essentially what you've done.

Mr Brown: It seems to be straightforward.

Mr Hodgson: That's why I'll be supporting the motion.

The Vice-Chair: Okay, since we've clarified who supports what, are we ready for the vote? All those in favour of Mr Brown's amendment? Opposed?

Clerk of the Committee: Three to two.

The Vice-Chair: The amendment is lost; a close call, though.

I think, Mr Hodgson, you have an amendment.

Mr Hodgson: It's essentially the same motion that was just recommended. I think the government one's next, isn't it?

The Vice-Chair: No, yours is next.

Clerk of the Committee: Yours is number 46-A.

The Vice-Chair: If you feel it's the same, if you don't want to move it, that's fine.

Mr Hodgson: I'll move the motion. I move that the bill be amended by striking out section 37 and substituting the following:

"Crown charges

"37. Crown charges in respect of forest resources authorized to be harvested or used for designated purposes by a forest resource licence shall be paid by the licensee whether the resources are harvested or used for a designated purpose by the licensee or by another person with the licensee's consent."

I could reiterate the reasons for this motion. It just makes sense that if a person holds the licence and another person comes in and cuts it, they should have their consent; they have to pay the charge. If somebody comes in and steals the wood, you wouldn't expect them to pay the charge as well as having the loss of the wood off their licence. There should be some consent or some process where that's dealt with.

Mr Brown: I share my colleague's concern, and we're really reiterating the same point, I think. It just is unfathomable to me how you can charge the victim of a theft the price for the goods. That's essentially what the government is intending to do here.

I'm waiting with bated breath to have a look at the government amendment, but in a quick reading of it I don't see that it accomplishes what Mr Hodgson is attempting to do in this amendment or we were trying to do in a far simpler amendment, to just make sure that people had to pay crown dues on the wood they harvested or someone who had their consent to harvest the wood harvested; that makes perfect sense. But to ask somebody to pay crown dues on wood that has been stolen from them is probably, most people would say, a little much.

Mr Hodgson: Mr Chair, if I could have permission,

I believe this was in the old Crown Timber Act, something similar to this provision.

Mr Wood: Yes.

Mr Hodgson: Okay.

The Vice-Chair: Ready to vote? All those in favour of Mr Hodgson's amendment? Opposed? The amendment is lost.

1640

Mr Wood: I move that section 37 of the bill be amended by adding the following subsections:

"Property in resources

"(2) Upon payment of the charges referred to in subsection (1) by the holder of a forest resource licence, property in forest resources that have been harvested on the land to which the licence relates during the term of the licence vests in the licensee, whether the resources were harvested by the licensee or by another person with or without the licensee's consent.

"Seizure of resources

"(3) The holder of a forest resource licence who has paid the charges referred to in subsection (1) is entitled to seize all forest resources that have been harvested during the term of the licence and that are in the possession of a person not entitled to them.

"Right of action

"(4) The holder of a forest resource licence who has paid the charges referred to in subsection (1) is entitled to bring an action against any person who, during the term of the licence, harvested, damaged or took possession of forest resources without the permission of the licensee."

The explanation on that is that the forest industry expressed concern that if it was to be responsible for crown charges on the area of its licence, even if somebody acted without its permission, then it should have some rights to action against wrongdoers. The provision was made in the Crown Timber Act and the government supports carrying it forward into the Crown Forest Sustainability Act.

Mr Hodgson: In light of the fact that both the Liberal motion and the PC motion, which were reasonable and brief, were rejected, I'll be supporting the government's amendment because it achieves that. However, I wish I had our colleague Mr Bisson here, because I believe for the first day of the hearings we were repeatedly told that a bill such as this shouldn't be cluttered up with unnecessary words. At that time, if you recall, we spent a whole morning on how it was unnecessary to add an additional clause which would have clarified many issues, and that went on for two or three hours. So I'd be interested, and it's unfortunate that he's not here today, to hear his opinion on adding—I haven't counted all the words, but it's certainly adding words, as opposed to Mr Brown's motion, which deleted two. I will be supporting the motion, though.

The Vice-Chair: It's always wise to leave out unnecessary words, that's true.

Mr Hodgson: That's right.

The Vice-Chair: Are we ready to vote then?

Mr Wood: Just briefly before we vote, I wouldn't want to comment on your statement that you just made without referring to Hansard to have some of the quotations, but I'm pleased that we have the support to move ahead and vote on it.

Mr Brown: I'm again a little perplexed, and maybe the parliamentary assistant can help me with my little analogy. If I rent an apartment and someone breaks into my apartment and takes my furniture, then I am responsible for finding the furniture myself and laying the charge and going to civil court to recover my dollars, but the rental company—say I had rented the furniture—expects me to pay. Is that what's going on here?

Furniture may not have been the best choice of examples, but you're in a rented premises—that's what they're doing, they're renting the right to the timber on the land—the timber is stolen by someone, and the onus is on the person it's stolen from to go find it and to go sue. Something's escaping me.

This is an improvement over what's in the bill. It certainly isn't an improvement over my motion or Mr Hodgson's motion. Why can't we be more straightforward about this?

Mr Wood: Comparing furniture, what would happen if somebody broke in and stole it? I guess the owner of it would still have to pay the rent on it—

Mr Brown: Well, that's the way I see it.

Mr Wood: —and continue making the payments on it if it wasn't paid for. There's no doubt about it that if theft of wood is out there, the crown, having been made aware of it, would seize that and then make sure the ownership was determined before going too far.

We feel that this is going to address the concerns that were raised by the forest industry. They have been part of drafting this amendment that we're bringing forward today. They feel that they can live with it, so that's why we're—

Mr Brown: I certainly see it as an improvement over what's presently in the bill, but I'm not certain this would be their first choice. I'm really having some difficulty with this whole concept. You're talking about somebody stealing something and asking somebody else then to pay for it. If they can go out and get some money back for it, all well and good, but only if you can find it.

I appreciate this is a little bit of an improvement, but it isn't much of an improvement. I wonder why we have to do this in the first place. We're told by Dr Balsillie that there are going to be more regulations, more men, more dollars, more people devoted to enforcing regulations, enforcing everything out there. In other words, we're going to have the woods cops now, and they're not going to come back and enforce this section. You're relying on the licensee to do all the policing on his own unit. There's an additional cost to the licensee.

It could be huge areas we're talking about. The present FMAs are noted by their hundreds of square miles. The theft could occur a huge distance from where they're actually operating and they would be required to pay the dues, even if there was little or no chance of ever finding out who took it.

I just don't understand the rationale. In most of the world, that's not the way it works.

Mr Wood: This motion gives the licensees the right to be able to take action against the wrongdoers.

Mr Brown: If you can find them.

Mr Wood: This is what the industry is concerned about, that it wanted to have that right, and we brought forward the motion which makes an amendment to address that to the industry.

Mr Brown: I guess we're not coming right to the basic premise, and the basic premise seems to be wrong, period. In my view, this particular group of individuals who are involved in having forest resource licences are being treated far differently than any other Ontario business that I know of.

Can you give me some other examples where the crown would act in such a manner?

Mr Wood: You used the furniture a while ago.

Mr Brown: Well, the furniture I agree was—

Mr Wood: But if I have a car and it's stolen, and even though I don't know who stole it and I've got payments on it, I still have to keep making those payments. I'm responsible for that property.

Mr Brown: I apologize for my analogy because it wasn't very good. It might have been better to talk about a corn crop that somebody comes in and harvests. I don't know how you'd do it with a corn crop.

Mr Hope: It would be pretty interesting if somebody stole a corn crop.

Mr Brown: I know it would be, but I'm fishing here, Randy. If you can help me with a better analogy—

Mr Hope: It would be pretty fishy, all right. If you can log fields—

Mr Brown: It's so odd. I can't think of another instance where this happens. Maybe Mr Hodgson would be able to find one.

The Vice-Chair: I don't think we're on a fishing expedition. We're trying to move the amendment.

Mr Brown: Are there any other examples? Where does this happen, other than in this particular instance, where the victim has to pay? Is there any?

Mr Wood: There's been a lot of consultation on this amendment before it was brought forward, in the drafting of it. The information we have is that it addresses the concerns the forest industry raised over the last few months and as a result we've brought it forward, understanding that it might not give 100% of what everybody wants, but at least they've indicated that it addresses most of their concerns.

The Vice-Chair: Okay. We're now ready for the vote.

Mr Brown: I think maybe we'll have to consider this particular measure and we'll need 20 minutes.

The Vice-Chair: Are you—

Mr Brown: I'm requesting 20 minutes.

The Vice-Chair: This committee stands adjourned until 5:10.

The committee recessed from 1650 to 1711.

The Vice-Chair: We're continuing our clause-by-clause considerations.

Mr Brown: My colleague from the Conservative Party is not here.

The Vice-Chair: Your colleague from the Conservative Party I'm sure will be appearing very shortly. We can perhaps continue the exchange since we are on the debate on section 37.

Clerk of the Committee: We have to have the vote. Under the standing orders, we vote on this now.

The Vice-Chair: I'm informed that we have to call the vote now.

All those in favour of the amendment by Mr Wood to section 37? Opposed? The amendment is carried. Any further amendments to section 37? Further debate?

Shall section 37, as amended, carry? Opposed? Carried.

Section 38: Are there any amendments? Debate?

Mr Brown: This section, if we read it with 37, as amended, means that a person could conceivably lose their licence for not paying fees on wood they did not harvest. I would gather that that's what the crown's hammer is. This is the hammer section.

Mr Wood: It's pretty clear on the way unpaid crown charges are handled.

Mr Brown: So you are saying, "If you do not pay fees on wood somebody stole from you, we won't renew your licence." Thank you. That clarifies that.

The Vice-Chair: Ready to vote? All those in favour of section 38? Opposed? Carried.

Section 39: Mr Brown, you have an amendment.

Mr Brown: I move that clause 39(1)(b) of the bill be amended by striking out "work schedule" and substituting "annual work schedule."

The reason for putting this is that we have consistently asked that a work schedule be determined in terms of an annual event. People are very concerned that they may end up having to file numerous schedules during a year. It would seem clear that it should be an annual work schedule, not one that happens 20 times or one that happens only once over five years. Really, what we're just asking for is pretty straightforward: to provide the crown with a work schedule for each year.

Mr Wood: The word "annual" being put in there doesn't allow us flexibility. You might not want to have "annual." You might want to have something other than annual. If that is tied into the legislation, you're bound by that. There may be some term other than "annual" that you might want there. Leaving it out will give you the flexibility. You're talking about it being covered under the forest planning manual?

Mr Brown: Yes.

Mr Wood: The term-of-work schedule will be covered in the Forest Management Planning Manual. We won't be supporting the amendment with the wording you have, "annual work schedule."

Mr Brown: What might you contemplate rather than "annual"?

Mr Wood: There might be some situations where you

don't necessarily want to have an annual work schedule. That can be covered under the forest planning manual. It might vary in different planning processes.

Mr Brown: I suspect as I read this that it almost has to be an annual work schedule anyway, in that it's substituted for—on the second anniversary date of this section coming into force, you are going to repeal this clause and substitute the applicable forest management plan. Is that a correct reading of the bill?

Mr Wood: It's always possible that at some time in the future you may want to do things a little bit differently than being bound by an annual work schedule.

Mr Brown: Would you think there would be more or less than annual work schedules? I'm trying to understand here whether the ministry is expecting, in a five-year plan, that there would be one for five years, or would there be one very year, or would there be five every year? I'm wondering what's contemplated by the ministry. Our suggestion is a yearly one, but if that's problematic, I'm trying to understand what it is that the ministry believes is necessary.

Mr Wood: There may be different resources we want to regulate, there might be a longer period of time. Under the timber EA, timber is one year, but there are other resources that might want to be longer; they could possibly be shorter, but it would probably be longer work schedules we'd be looking at.

Mr Brown: So for the management of the blueberry patch, you might have a work schedule other than annual. Is that what we're being told, and that I'm looking at this too narrowly, just thinking we have to do it as—

Mr Wood: We're looking at the flexibility that might be needed in the future as things change. When you're dealing with resources, you're dealing with different resources, and they might want to be handled in way other than an annual work schedule.

The Vice-Chair: Are we ready to vote? All those in favour of Mr Brown's amendment? Opposed? The amendment is lost.

1720

Mr Wood: I move that subsection 39(2) of the bill be amended by striking out "forest ecosystem" in the last line and substituting "crown forest."

The rationale is that "crown forest" in the bill is defined as "a forest ecosystem or part of a forest ecosystem." This change is being proposed throughout the bill. The proposed amendment will make the bill more consistent.

Mr Brown: This is one of the things we've been objecting to right from the very beginning. The government seems to believe a crown forest is almost equated to a forest ecosystem. I've got news for the government: The lines are not that straight out there. There is private land in the area. There are provincial parks in the area. They may be part of the same ecosystem we're talking about.

Either the management units have to encompass ecosystems, which is probably not practical, or you have crown forests that are but part of an ecosystem. If you're managing the forest and managing for the ecosystem and

managing for all those good things you always tell us have to be managed for, it seems to me that you have to take into account what might be just over the line if it is part of the same ecosystem. By just having "crown forest" there, you're not doing that. You're defeating what this bill is supposed to be about.

I wish somebody could explain to me why you would not want to take the ecosystem into account. A crown forest is not an ecosystem on its own: It may be many ecosystems; it may be part of many ecosystems.

I don't think you're accomplishing here what the government wants to accomplish, or what I think all of us want to accomplish, that is, that we have regard for the entire ecosystem in the area.

Mr Wood: What we're trying to do with this amendment is be consistent—

Mr Brown: Consistently wrong, I would suggest.

Mr Wood: Under the definitions, crown forests are spelled out. It "means a forest ecosystem or part of a forest ecosystem that is on land vested in Her Majesty in right of Ontario and under the management of the minister." It is basically cleanup language to be more consistent with the definition spelled out there of what a crown forest is.

Mr Brown: You've just made my point. We're talking about parts of ecosystems. I think, in order to plan a forest correctly, you have to look at the forest ecosystem, which is what the bill says. If you change that to "crown forest," you're regarding, it seems to me, the area within the limits or within the management agreement or the management licence, whatever you want to call it. You're looking at it separately, and I don't think that's what we're trying to do here; at least that wasn't what I was led to believe this was about.

This is about managing for the ecosystem, of which this may only be part, and therefore you're better with the wording you've got. I think you want people to take what's just over that line into account. If there's a provincial park on the other side of the line, which very well could be, maybe you don't want to clear-cut right up to the edge of it. Maybe that would be bad, maybe it would be good, I don't know. But you would certainly want to take into account that there's a crown forest that happens to be in a provincial park right across that line. By talking about the ecosystem, rather than by talking about the crown forest, you can achieve that. I don't think I'm just splitting hairs; I think it's an important point to this bill.

Mr Wood: We are suggesting that striking out "forest ecosystem" and substituting "crown forest," as in the definition—I've explained that we're being consistent throughout the bill by bringing forward this amendment.

Mr Brown: Doesn't it bother you that you may be being consistently wrong?

The Vice-Chair: If I can just be helpful, we are at section 39 and it's 5:20. We do have a substantive number of sections still left, so can we close this debate?

Mr Wood: This is spoken to in the forest management plan in the manual.

Mr Brown: So you're saying this issue is addressed.

It can only be addressed within the manual if the regulations permit that, and the regulations can only do that if it's permitted by the act.

Are you telling me that "ecosystem" and "crown forest" are the same thing? I don't think they are, and I don't think many people would believe that. The crown forest is an arbitrary line that has been determined somewhere which relates to harvesting activities and who's got tenure on it and that sort of thing, but it doesn't necessarily represent, and probably doesn't represent, ecosystems.

Mr Wood: If you look at the definition on page 3, it spells it out quite clearly. We've dealt with that earlier.

Mr Brown: I'll surrender, Mr Chair.

The Vice-Chair: Thank you. Are we ready to vote on the government motion? All those in favour of Mr Wood's amendment to section 39? Opposed? Carried.

There is a Liberal motion to section 39.

Mr Brown: We will not put this amendment.

The Vice-Chair: Okay. All those in favour of section 39, as amended? Opposed? Carried.

Section 40: Any amendments, comments, debate?

Mr Brown: Maybe the ministry can help us, and I believe this would be the appropriate time to ask. I have heard some corridor chatter about a compliance manual and I'm wondering if the ministry believes that there should be a compliance manual. This is a compliance section. As members all know, these thousand pages or so of manuals are what probably define this act more than the bill. The bill is tremendously permissive; some would say unbelievably permissive. Is there any suggestion that there will be a compliance manual?

Mr Wood: The plan is not to have an additional manual. I think we're talking about the fact that it could be a policy that will assist, but not a compliance manual.

Mr Brown: So the corridor chatter I've heard is incorrect: There is no thought of a compliance manual that will be added to the four manuals we have already. Fine.

Mr Hodgson: Just for my information, just so we're all privy to the same corridor chatter—I also have heard about this compliance manual. Can the parliamentary assistant explain to me and to the public the background behind this? If we're going to deal with it at this section, that's fine. Is there some contemplation that there will be compliance guidelines put into an existing manual, and if so, what form will they take and what proof do we have that it's going to happen?

Mr Wood: We've said we will abide by all the terms of the EA that was out there and the EA requires a policy or a handbook, but an additional manual is not the intention. The terms and conditions of the EA requires that a handbook of some type be there.

1730

Mr Hodgson: Would that be part of the existing Forest Operations and Silviculture Manual? To make it simpler, have you gone through your second workshop with the manuals?

Mr Wood: Yes.

Mr Hodgson: And during those workshops was it contemplated that there would be additions to the first draft we saw? Is that where it came up? Was it discussed at the workshop?

Mr Wood: Not an additional manual, no.

Mr Hodgson: I realize that, but as part of an existing manual, the Forest Operations and Silviculture Manual. Would there be additions to that which would alleviate some of the concerns expressed, which I've heard in hallways and offices and lunchrooms?

The Vice-Chair: There's chatter in the corridor.

Mr Hodgson: There's chatter in this room for sure, Mr Chair, but let's put it on the record.

Mr Wood: I did not participate 100% of the time in any of the workshops, but my understanding is as in the comments I made earlier, that the EA requires some type of pretty simple handbook. That will be done, but not an additional manual.

Mr Hodgson: Will it be referenced, though, in the operations manual?

Mr Wood: Yes.

Mr Hodgson: That's what I'm getting at. When will we see that? When will the final draft of the manual be out?

The Vice-Chair: I'm sure all this is related to section 40.

Mr Hodgson: Extremely.

Mr Brown: Yes, Mr Chair, this is the compliance section.

Mr Wood: Yes, it will be within one year of the passing of the Crown Forest Sustainability Act.

Mr Hodgson: But one of the things we'll be debating when this comes out of committee and goes into the House—this is enabling legislation. The manuals were provided to us in draft form so we would have a basis for approving or rejecting this legislation or trying to improve it, so we were given the draft copies. Will we be given second draft copies, including not the exact handbook but the points that will be included in this handbook? Instead of a separate compliance manual it will be involved in one of the other manuals, but will we have a chance to take a look at the issues that are going to be covered before it goes into the House, just a précis of it?

Mr Wood: The regulations, as they're being revised and updated, are out there now, the latest edition of them. After the last workshop, I believe we're talking about the third draft, and there's no reason why we shouldn't have them available.

Mr Hodgson: We have the first drafts, and the government's been very cooperative in sending them over.

Mr Wood: And they're working on the third draft now.

Mr Hodgson: So a précis of this compliance handbook will be included with this third draft, I would assume.

Mr Wood: It will be produced within a year after the act has been passed.

Mr Hodgson: And that will be referenced in the third draft of the manuals; that there will be a subsequent section in one of these manuals that will talk about compliance guidelines?

Mr Wood: The reference will be there that it will be worked on and produced.

Mr Hodgson: That confirms some of the corridor chatter. Now we're all dealing with the same information.

Mr Wood: But it is a handbook. The chatter was wrong in terms of a fifth manual being produced.

Mr Hodgson: But it was essentially correct in the substance of how it's going to affect the industry.

Mr Brown: This is an interesting discussion, and I'm having some difficulty following it in some ways. If there are to be compliance "guidelines"—I guess that's the word we're using—from what authority do they flow? Does there not have to be authority within the act for these guidelines to come into force, and would they not better be part of the manuals, which are subject to the regulations, subject to the act? I am having some difficulty in my own mind in putting this all together.

Where does the authority for the guidelines come from, and cannot the guidelines be changed rather easily from one moment to another, certainly as compared to regulations or manuals?

You then enter the second problem, and it's a problem we've encountered over and over again, where one district manager in one place interprets the guideline in a certain way and the next district manager sees it in a different way and we end up with seven or eight different standards for essentially the same problem or operation.

One of the problems we've had and expressed over a long period of time is the fact that later on it talks about loss or damage. There's no definition of loss or damage. I would presume that the compliance guidelines are going to attempt to define loss or damage so we can understand what it is that loss or damage means. I would prefer that we had loss or damage defined in the act so that people would have some idea of what they were dealing with as they went about their daily business.

How does the authority flow for the guideline? Doesn't it have to be in a manual? Therefore, wouldn't the manual have to be changed and therefore wouldn't the regulations have to be changed and therefore wouldn't the act have to permit all of the above?

Mr Hodgson: He just told me it's going to be in the manual.

Mr Brown: But that means there has to be permission in the act for the regulation, because the regulation changes the manual. One of the things people have always—at least they've knocked on my door about it on a number of occasions over the seven years I've been here. They've been concerned about the way guidelines have been interpreted. Guidelines are not law, they're guidelines. There's an argument for flexibility, but there's also an argument for consistency.

Mr Wood: What we're trying to do is to eliminate some of your concerns, where you say a district manager would interpret one way in one area and in another way in another area, by bringing all of the stakeholders

together, whether it be the pulp and paper industry representatives or the OLMA representatives, and making sure we have a standard handbook that will be applied right across the crown forests. That should clarify some of the concerns you said you've been addressed with over the last seven years. That is the intention.

Mr Brown: But my question really is, where does the authority to do that come from? Where is the authority to issue those specific guidelines? That necessarily would have to come from the manuals, I would think.

Mr Wood: There are EA requirements out there as well.

Mr Brown: There are quite a number of them, and that's also been a concern. Again it's this question of process. The EA requires a great number of things, and many people would say the EA requirement is stricter than this act in many places. I've been concerned that across the crown forests of Ontario we will not have the same regime. There are areas outside the mandate of the class timber EA, and those areas outside will be governed by the act solely, not by the timber EA, because that timber wasn't subject to it. That means you're going to automatically have two different regimes. I'm wondering where the authority comes to enforce the EA if it's not within this act. The EA says you've got to do it, but how do you do it, is my real question. What legislative authority does the minister have to police the EA terms and conditions?

Mr Wood: Every piece of legislation sets up guidelines to follow. As we said, this legislation was drafted along the lines of the EA and it will address all those concerns. I believe the authority for the guidelines is addressed in here.

Mr Brown: The opposition is just trying to be comfortable that you have the legislative authority to do what you say you want to do here. We're wondering where that is. It seems to us that the authority has to flow from the manual to the guidelines. Is that right?

Mr Wood: The EA ruling is basically saying there has to be a handbook. We're saying we abide by the rules of the timber EA, so that's another—

Mr Brown: How do you deal with that in the area that's not subject to the timber EA?

Mr Wood: Which areas are you talking about?

Mr Brown: We were told at committee that there were areas outside of the timber EA. When I was asking questions about that the last time we met, I was informed—I don't have a map to know exactly where they are, but the ministry staff said that was the case.

Mr Wood: There are some really remote northern areas that were not covered. Yes, that's quite true.

The Vice-Chair: Are you ready to vote on section 40?

Mr Hodgson: No, Mr Chair. I need a bit of clarification

on this. We're dealing with section 40: "A person who conducts forest operations in a crown forest shall comply with the Forest Operations and Silviculture Manual." So it's not just about timber extraction, is that correct?

Mr Wood: Right.

Mr Hodgson: But the crown EA dealt basically with the timber environmental assessment. This act is enabling legislation for all who have a forest operation. That's not just timber extraction.

Mr Wood: No.

Mr Hodgson: In answer to my first question, I was told that there's not going to be a separate manual, but inside those manuals there will be a compliance guideline or how you will comply with it. It won't be a separate manual, but it will be included inside that manual. Is that correct? I realize it won't be done for a year.

Mr Wood: If you're talking about the handbook that is going to be referenced, yes.

Mr Hodgson: Okay. It's going to be referenced in there, so somebody who has an operation in the crown forest will look at the Forest Operations and Silviculture Manual and it'll reference this compliance guideline, so he'll look in the compliance guideline to make sure he's operating an environmentally sound operation.

Mr Wood: Yes, and the handbook will be ready within a year after the act is passed.

The Vice-Chair: I think we're ready now to vote on section 40.

Mr Hodgson: No, 20 minutes.

The Vice-Chair: Could we not just finish section 40? Do you not want to vote on section 40 at this point?

Mr Hodgson: I'm new at this, Mr Chair. What happens at 20 minutes to 6 on a Thursday night if 20 minutes is requested?

The Vice-Chair: If you are requesting a 20-minute recess, we won't have a vote on section 40 today.

Mr Hodgson: But we will when we resume on the following Thursday?

The Vice-Chair: We will go immediately to the vote, but I would prefer that we do a vote now.

Mr Hodgson: I still have to be clear on this issue of where it'll be. That's the only problem I have with voting on it right now.

The Vice-Chair: I'm in the hands of the committee. Can we vote?

Mr Hodgson: No, 20 minutes.

The Vice-Chair: You are requesting a 20-minute recess? Okay. This committee stands adjourned until November 17 at 10 o'clock, at which time we'll be voting on section 40.

The committee adjourned at 1745.

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Bisson, Gilles (Cochrane South/-Sud ND) for Mr Wessinger

Carr, Gary (Oakville South/-Sud PC) for Mr Arnott

Hodgson, Chris (Victoria-Haliburton PC) for Mr David Johnson

Wood, Len (Cochrane North/-Nord ND) for Mr White

Also taking part / Autres participants et participantes:

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Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Filion, Sibylle, legislative counsel



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**Official Report
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Thursday 17 November 1994

**Standing committee on
general government**

Crown Forest Sustainability Act, 1994

Chair: Michael A. Brown
Clerk: Franco Carrozza

**Journal
des débats
(Hansard)**

Jeudi 17 novembre 1994

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affaires gouvernementales**

**Loi de 1994 sur la durabilité
des forêts de la Couronne**

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Thursday 17 November 1994

Jeudi 17 novembre 1994

The committee met at 1111 in room 151.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Vice-Chair (Mr Hans Daigeler): The general government committee is continuing its clause-by-clause consideration of Bill 171. When we last met, there was a call for a vote and then there was an adjournment for 20 minutes, which means that we're now taking the vote on section 40 without further debate.

All those in favour of section 40? Opposed? Carried.

Section 41: Any amendments, questions, comments?

Mr Frank Miclash (Kenora): The minister has approved in writing the harvesting in the area in which the harvesting is to occur, and I would just like to ask the parliamentary assistant whether that gives the minister any more power or less power than he has under the present Crown Timber Act.

Mr Len Wood (Cochrane North): I understand it's the same.

The Vice-Chair: Any further questions? All those in favour of section 41? Opposed? Carried.

Section 42: I understand, Mr Miclash, there's a Liberal amendment.

Mr Miclash: I move that subsection 42(1) of the bill be amended by striking out "and counted" in the last line.

The Vice-Chair: Did you want to comment on it, or are we ready to vote?

Mr Miclash: We're ready to vote.

The Vice-Chair: All those in favour of Mr Miclash's amendment to section 42? Opposed? The amendment is lost.

Further amendments to section 42? Mr Wood.

Mr Wood: I move that subsections 42(2) and (3) of the bill be struck out and the following substituted:

"Methods of measurement

"(2) A person who measures, counts or weighs forest resources shall do so in accordance with the Scaling Manual.

"Exceptions

"(3) Despite subsections (1) and (2), the minister may direct that forest resources be measured, counted or

weighed at a place other than the place of harvesting and in such manner as the minister may direct."

Mr Bernard Grandmaître (Ottawa East): What are the reasons for the amendment?

Mr Wood: I think that what we're saying is that the change is to control the methods of wood measurement and clarify the minister's power to authorize and control the movement of unscaled wood that is not paid for. The minister requires the authority to ensure forest resources are measured in a cost-effective manner.

Mr Grandmaître: Subsection (2) says "do so in accordance with the Scaling Manual." Isn't the Scaling Manual effective enough or strong enough at the present time? Is that why you need this amendment? If people follow the Scaling Manual, aren't they doing a good enough job at the present time?

Mr Wood: The reason for this amendment is to clarify the original wording in the legislation. We feel that this amendment, bringing it forward, clarifies what the original draft was of the legislation.

Mr Grandmaître: My last question: Are you changing the Scaling Manual?

Mr Wood: This manual is one of the four manuals that are under development and the process is involving all the stakeholders in its development. It's one of the four manuals, yes.

Mr Grandmaître: Will we have a chance to see this new manual?

Mr Wood: Yes.

Mr Miclash: To the parliamentary assistant, a point of clarification: Subsection (2) talks about "counts" and subsection (3) "counted." Could you possibly expand on that, explain what is meant by the terms?

Mr Wood: When we're talking about the word "count" or "counted," there are occasions where you do physically count or a load has been counted to get an idea of what is there, as well as in most cases it's weighed. But there are occasions where you have to count the number of trees and then use it by volume. So that's the reason for the word "count," or "counted" in (3).

Mr Miclash: Subsection (3) indicates exceptions. Can you give us an example of what you mean by an exception, where the minister would grant this exception?

Mr Wood: I think the example to us is if the minister was to direct the wood to be moved to a certain area to be weighed, this would be where the exceptions are.

Mr Miclash: So this gives discretion to the minister

to direct requirements in the manner he chooses. Is that what we're saying here in subsection (3)?

Mr Wood: Yes, the minister may direct that forest resources be measured, and in the last words it's saying, "in such manner as the minister may direct."

Mr Miclash: I'd just like to say that I have a problem with the discretion that this section would give the minister. It is a lot of power, yes. Thank you.

The Vice-Chair: Any further debate? All those in favour of Mr Wood's amendment? Opposed? The amendment carries.

Mr Miclash, I think you have another amendment to section 42.

Mr Miclash: I move that subsection 42(3) of the bill be struck out and the following substituted:

"Methods of measurement

"(3) A person who measures or weighs forest resources shall do so in accordance with the Scaling Manual."

I believe we've touched on that already.

The Vice-Chair: Any further debate? All those in favour of Mr Miclash's amendment? Opposed? Lost.

I think, Mr Carr, you have an amendment to subsection 42 (3).

Mr Gary Carr (Oakville South): Is that 52-A?

The Vice-Chair: Yes.

Mr Carr: Yes, it didn't say ours on it. Is that because it's a replacement?

The Vice-Chair: I'm sorry, I didn't hear you.

Mr Carr: On the top, it doesn't say that it's our motion. Is that my copy?

Clerk of the Committee (Mr Franco Carrozza): This was the package from your party given to me.

Mr Carr: I know that, but in my package that I have here, it doesn't say—you know how it says Liberal motion or PC?

Clerk of the Committee: Yes.

Mr Carr: But it's 52-A?

Clerk of the Committee: It is yours.

Mr Carr: I just didn't want to—

Mr Mark Morrow (Wentworth East): On a point of order, Mr Chair: The PC motion, is that in order? It's the same as the previous one.

Mr Carr: It's almost word for word.

The Vice-Chair: I'm advised that we already dealt with it, so, Mr Carr, sorry. It's out of order.

Mr Carr: I told you. Mark's maiden speech in the committee.

1120

The Vice-Chair: Any further amendments to section 42? Seeing none, all those in favour of the amended section 42? Opposed? Carried.

Section 43: Any questions, amendments, comments?

Mr Miclash: Am I to read into this that any person who removes resources must keep records as prescribed by the regulations? Is this what section 43 is actually putting forth in terms of records?

Mr Wood: Yes. There are various ways of keeping records. There are the print records, there are also electronic records and, as it says, the records shall be kept as prescribed by the regulations. It's basically for auditing by MNR.

The Vice-Chair: All those in favour of section 43? Opposed? Carried.

Section 44: Amendments, questions? All those in favour of section 44? Opposed? Carried.

Section 45: Mr Wood, you have an amendment.

Mr Wood: I move that subsection 45(1) of the bill be struck out and the following substituted:

"Forest renewal trust

"(1) If the forest renewal trust is not established under the Crown Timber Act before this act comes into force, the minister may establish in writing a trust to be known in English as the forest renewal trust and in French as fonds de reboisement.

"Same

"(1.1) If the forest renewal trust is established under the Crown Timber Act before this act comes into force, the trust is continued under the name forest renewal trust in English and fonds de reboisement in French."

The Vice-Chair: Any explanation or discussion?

Mr Gilles Bisson (Cochrane South): I only wish he would have said "reboisement" a little bit better.

Mr Wood: What we're saying here is the rationale behind this is that they will permit a forest renewal trust fund established under the Crown Timber Act, as amended by the Budget Measures Act, 1994, and carry over without change, and it will save re-establishing the trust fund. It eliminates the potential cost of re-establishing trust arrangements and it does not impact on the operation of a trust or cost to industry.

As a lot of people are aware, there are a number of companies, five I believe, that under the Bob Carman exercise have come to agreements, business relationships which cover a fair amount of the FMAs. This basically says what has been happening now, what is covered here. That's the reason for our amendment.

Mr Miclash: To the parliamentary assistant: During the hearings were most groups in favour of this amendment or were there any concerns expressed regarding it from your point of view?

Mr Wood: To my knowledge, the trust fund is being set up and being negotiated. This hasn't been a controversial issue. Trust funds have been established in other provinces and now they're being established in Ontario. It's a housekeeping amendment that we're bringing forward, recommended by the ministry.

The Vice-Chair: Further discussion? All those in favour of Mr Wood's amendment? Opposed? Carried.

Mr Carr, I think you have an amendment.

Mr Carr: Which number again?

The Vice-Chair: 53-A.

Mr Carr: I don't have a 53-A.

The Vice-Chair: I think you passed one to the Minister of Finance.

Mr Carr: I move that subsection 45(5) of the bill be struck out and the following substituted:

“Annual report

“(5) The trust shall report annually to the minister on the financial affairs of the trust and the minister shall table the report in the Legislature.”

Obviously this, being as simple as it is, is pretty self-explanatory. The people of the province, through their elected members of the Legislature, should have the report tabled to them and obviously to the minister as well. It's only common sense. We'd like to see it put in the legislation. I don't see how anybody could be opposed to having a complete report of the financial affairs of the trust reported annually to the minister.

Obviously that should go on as something that would be standard management practice that would go on in any organization; also obviously, as it relates to the entire province, as this bill does, not only should the minister receive the report but members of the Legislature because, as we all know, a bill dealing with the Crown Timber Act and crown forests in Ontario affects all members of the Legislature in their area.

I would assume from the parliamentary assistant that this is something they would be pleased to do: have this amendment brought forward in good faith, accepted and passed by the government.

Mr Ted Arnott (Wellington): Just to follow up, I certainly concur with everything Mr Carr has said and I think it's important that we enhance to the extent that we can accountability to the Legislature in this regard. As Mr Carr has indicated, all members of the Legislature are and should be interested in this issue and will be on an ongoing basis. To enhance accountability would be a desirable objective, and I certainly encourage the government and the parliamentary assistant to support this amendment.

The Vice-Chair: Mr Miclash, did you have your hand up?

Mr Miclash: I would like to also indicate support for this amendment as has been indicated by the previous speakers. I think this is a very important aspect of the act and that this portion of the report should certainly be tabled in the Legislature.

Mr Wood: Just briefly, and I don't want to get into any major argument, but the government amendment and also the Liberal amendment we feel clarifies it a little bit better:

“The minister shall submit the report to the Lieutenant Governor in Council and shall table the report in the Legislative Assembly.”

The intention is there, but we will be voting against the Conservative motion in favour of our motion, which will be coming up right after.

The Vice-Chair: Any further debate? All those in favour of Mr Carr's amendment? All those opposed? The amendment is narrowly defeated.

Mr Wood, you have an amendment.

Mr Wood: I move that section 45 of the bill be amended by adding the following subsection:

“Tabling of report

“(5.1) The minister shall submit the report to the Lieutenant Governor in Council and shall table the report in the Legislative Assembly.”

I would just point out that this is very similar to the next one that is coming up in the package. They're pretty well identical, so I'd ask for the support of this one.

1130

The Vice-Chair: If indeed the Liberal motion is the same, therefore if this one passes, it will be outvoted. Any further discussion? All those in favour? Carried.

Are there any further amendments to section 45? Further discussion? All those in favour of the amended version of section 45? Carried.

Section 46: Mr Wood, you have an amendment.

Mr Wood: I move that subsection 46(1) of the bill be amended by striking out “in accordance with the regulations” in the third and fourth lines and substituting “as required by the Minister of Natural Resources.”

Mr Michael A. Brown (Algoma-Manitoulin): That's a change in authority. I'm just wondering, from the parliamentary assistant, why he wants to change the authority as to who decides.

Mr Wood: It's requested, it has come forward. The industry wants to ensure that only the appropriate funds are put into the trust funds so that investments are properly balanced across the industry's broad range of activities, including renewals.

I understand that the industry has indicated that it expects that the forest renewal charges will have to reflect the forest renewal conditions specific to each of the 100-plus licences as actual results and costs are determined through review. So this is the rationale for bringing forward this amendment.

Mr Brown: So instead of the Ministry of Finance, you're really suggesting that it's the Minister of Natural Resources that should—have I got this wrong?

Mr Grandmaître: No, no.

Mr Brown: I'm just really trying to sort this out in my own head here. The problem, as I see it, if it is the Minister of Natural Resources rather than the Minister of Finance, we have a situation then on the crown units, not on the units that are subject to the former FMAs but on the crown units.

We've been told by the ministry that on those particular units where we maybe have quite a number of small players, the ministry itself will be the one that does the forest management plans, that the ministry itself will be doing the renewal and reforestation and whatever.

We'd then have the situation where Len Wood Inc, who is a small jobber on one of the units, is paying into the forest renewal fund as he should through the stumpage fees etc. The ministry, however, has formulated the plan that you're working under. You're working really under the ministry in this situation. The ministry is then dictating the renewal and the ministry itself is deciding whether the funds that we're allocated are being spent appropriately. Have I got that wrong?

In terms of accountability, that's my problem. I can

understand that on the forest management agreements this works probably just quite fine, but on those crown management units you're ending up with the minister really doing everything and only being accountable to himself in terms of the disbursement of funds. Am I wrong in the way I'm understanding this?

Mr Wood: By this particular amendment the money is going to be going to the Ministry of Finance, but rather than have 100 regulations to change, the ministry would be able to set the rates administratively. We're talking about an amendment that is going to be tidying things up. What we're talking about is ensuring that we have an appropriate guarantee funding for renewal, and the advice we're getting is that this is one of the amendments that should be brought forward to make sure that that happens in a neat way.

Mr Brown: Yes, I understand that. My difficulty is in the particular circumstance where the ministry itself is really doing everything other than the actual harvesting. They are providing the plan, as we were told, then directing the reforestation. The ministry itself, I would presume, is the one that will draw down on the trust account. It seems to me that in that case there's not a degree of accountability that we might want.

As a matter of fact, in the Auditor General's report, one of the issues that he had raised was the inability to audit for value in terms of the reforestation. In other words, he thought it was at least conceivable that some companies were charging, should we say, non-competitive rates to do reforestation and inflating the amount of money that they were showing, therefore, as being spent on reforestation.

This act will I think do much to change that practice, but it doesn't do much to change that practice, if at all, if there's no transparency in the transaction as the ministry itself decides on the plan, the reforestation, and then decides whether everything has been matched in the most cost-effective manner. Am I quibbling about something that shouldn't be quibbled about? Have I got it wrong is I guess the question I'm asking.

Mr Wood: The crown units that you're talking about, as far as I know, will be subject to audit under the terms of the EA and the results will be tabled in the Legislature as well.

Mr Brown: I understand that part, but what I'm trying to get at is the value for money part of it. If I'm on my own limits harvesting my own trees, I, as the company, have put the plan in place, decided on the reforestation program, which has been approved by the ministry, so there's kind of a separate approval process.

But my real concern, if I'm the industry then, is to get the most bang for the buck. I'm the guy who's got to draw down on this trust account, and if I can show over a period of years that I don't need to have that much money in the trust account, maybe I can convince someone to lower the rate of stumpage, because I'm doing everything I should be able to do and I can do it for less, so there's a way for the limit holder to think that there's an advantage to be cost-effective and look after those kinds of concerns.

But when it's the ministry itself, they're charging those stumpage fees to a third party. It's not the ministry that's paying the stumpage fees, it's somebody else, but they're doing the work or contracting for the work, and I'm wondering how this provides an incentive in those cases for the ministry to make sure that it has the most cost-effective solution to it.

I understand that the reforestation itself should be done and it'll be done accordingly, but in terms of being cost-effective, you now have the minister doing everything. He regulates himself, he does the planning himself, he does the reforestation himself, and at the end of the day when he looks at the trust accounts and says, "Yes, those are legitimate, pull them down," he pays it to himself because he has agreed it's the best value he could get. Kind of a good system, I would think.

Mr Wood: I think everybody wants to be cost-effective in what they're doing out there, and one thing that you have to remember is that the ministry will be establishing local citizens' committees to be out there and help to keep things accountable as well.

1140

Mr Brown: Is there a mandate within those committees to look at the cost? The committees, as the timber EA has said, have a responsibility and their responsibility is primarily environmental and economic from the standpoint of where the wood goes and how well the environment is treated. That's a pretty broad way to describe it, but that's essentially what we're talking about.

What I'm talking about is value for money. I'm sure private enterprise working under the FMAs—what do we call those again? The new term under this act, but essentially the old FMAs. There will be real incentive for them to get value for money. I'm not sure in this instance how there's a value for money. The same onus is being placed on the public sector.

The difficulty here is if the public sector does not have the same constraints for value for money, then it's the guy paying the stumpage fee in the long haul who may be faced with higher regeneration costs, which would reflect over time, I would suspect, in higher stumpage fees, which he won't like. But he really has no control and, because the one minister's doing everything and there's no accountability to the Ministry of Finance then, I'm just wondering if the mechanism that we're developing shouldn't have a more cost-effective safeguard built into it.

That's the attraction of these trust funds. I think they're a great idea because there is a real incentive to do things in a cost-effective manner. The incentive to the people on the licence to do things in a way that maximizes the reforestation impact should be quite apparent. But on the other hand, that's a different kettle of fish when you're looking at a third party that does the plan, or a third party that does the reforestation, or a third party that is managing the trust fund and the money flows back to the ministry instead of otherwise.

All I'm talking about is that we have, I think, in the 1990s a real obligation to write legislation that promotes the most cost-effective use of the public dollars available,

or anybody's dollars available. If we can do that in the legislation, I'm not sure that having the Minister of Finance do it is not a better idea. I'm just wondering.

Mr Wood: I believe that we have a cost-effective system with this legislation with that amendment, because we're going to have annual reports on each unit that are going to report on the expenditures and the renewal. The environmental assessment terms and conditions that we're saying that we abide by, saying that annual reports should specifically speak to the concerns—MNR must annually report activities on expenditures. There are a number of things that tie in, as well as the local citizens' committees, so I think we've answered your concern.

Mr Brown: That may answer my question. Perhaps we could be assured that there will be within MNR management some kind of cost comparisons being done between the various management units. One of the things that always interests me is people make wonderful arguments always about what's the best way to spend money, how to get most value for money, and usually they're exactly that and at the end of the day the way you can know is by the bottom line on the financial statement of who is right.

In this case I think we have an interesting opportunity to compare what goes on in perhaps the adjoining FMA to these crown units. If the forest is anywhere near similar, you would have an opportunity to say, well, gee, how come they are able to reforest their area for, I don't know, \$1 a hectare, or I don't know what number—\$1 worth of stumpage, however you wanted to express that—cheaper.

Why is it that the ministry is spending more money? Or conversely, why is it that the forest practices on this other unit seem to be more expensive than what the ministry is doing? Is the ministry contemplating that kind of value for money comparison between units on how things are spent in reforestation so that we can be assured that we get the best product for the least amount of money? Are you contemplating that kind of comparison?

It's fine to say they audit somewhere. The audits, as I understand them, are looking at the environmental and at the yield side, all of those questions, and that's fine. All I'm asking is, who's looking after the piggy bank in terms of those audits? Will those audits describe who's getting the most bang for the buck, so to speak, in reforestation?

If you want to deal with it in another section, fine, but I think they're important questions to know as we go through the management. It's always a concern—one of the things that always bothered me is that politicians, because we have—I don't think it's a bad thing but I don't know what the solution is.

We talk about, "Will we spend a million dollars on that?" Maybe we only got half a million dollars worth of value out of that million dollars, and it's very hard for us often to know. We have to put the procedures in place to make sure so that there's always the incentive to do the cost-effective thing, do it in the most cost-effective way, rather than to go out and boast, "I spent a million dollars building a bridge that should've cost half a million dollars."

The Vice-Chair: Can we consider voting on the amendment?

Mr Wood: I believe we're ready to vote.

The Vice-Chair: All those in favour of Mr Wood's amendment to section 46? Opposed? Carried.

Any further amendments or discussion to section 46? Seeing none, shall section 46 carry as amended? Opposed? Carried.

Section 47: Any amendments, debate?

Mr Brown: I don't have any amendments, but maybe some questions. This section of the bill that we're dealing with today is actually exactly the same as is this section in the omnibus bill that the House passed last June. Until we started to amend it, it was exactly the same. The way this act works is when this act passes Parliament and is proclaimed, it replaces the Crown Timber Act to which those amendments were made in the spring.

I'm wondering, under this section as it is presently in force in Ontario, if people are paying, as they should, into their trust funds. Are they set up? Are they supervised? Are they working. And are they also able to draw them down as they do the reforestation at the present time?

Mr Wood: At the present time, as you are aware, with the new business relationships that have been negotiated in converting the FMAs to sustainable licences, the money is going in there, as is established in the legislation that's coming through. All that can be done in harmony as the negotiations as the bill passes through, and this will fall in line with what is being done. There are no amendments to this particular section as far as I know. There's no real concern.

1150

Mr Brown: In short, people are paying into these. What happened to the stumpage money that people have been paying since April 1 of this year? Has it gone into or is it to be credited against these accounts?

Mr Wood: I understand the first negotiated agreement was sometime in September.

Mr Brown: But people have been paying this since April 1, or companies have been paying this.

Mr Wood: The legislation wasn't—

Mr Brown: There will be a large number of companies and individuals that will not be negotiating a new business arrangement with the government. They are essentially the small operators on the crown forest units. Has their money been going towards these renewal trusts? If it hasn't, when will it? Because I don't think you'll be negotiating new business arrangements with those people, I don't suspect. As a matter of fact, I'm pretty sure.

Mr Wood: There's a transition period that takes place, Mr Brown, as we go from one piece of existing legislation to new legislation and when it is enacted. The exact details of how every dollar is being accounted for, I'm sure the information is there, but I don't have it at my fingertips right at this moment.

With the setting up of the funds with the legislation that was passed in June to make trust funds available through legislation, and now with this piece of legislation

coming through, I'm sure all of the stumpage fees you're concerned with are going to be accounted for. Whatever portion goes to renewing the forests out there, as every acre is being harvested, it will be renewed. I'm sure it's all being well accounted for. I don't know the exact procedures, I don't have it here at my fingertips, but I'm sure that's being well taken care of.

There has not been that much concern for section 47, because nobody, including the government, has brought any amendments in for changes to it. It seems to have been straightforward.

Mr Brown: That may be so, except that (3)(a) talks about "reimbursement of silvicultural expenses incurred after March 31, 1994." In other words, it's retroactive. I'm trying to figure out how that money got paid if it didn't go in and how it's to be approved.

Mr Grandmaitre: How would the books balance?

Mr Brown: Frankly, that question, as the critic, has been addressed to me. People have asked, "When do I start getting the money that I'm putting in?"

Mr Wood: I'm sure I'll be able to get you an answer on that. I don't have it right at my fingertips right now, Mr Brown, but I'm sure the financing department and MNR are going to be able to give you a detailed answer on where that money is sitting and how it's going to be used.

The Vice-Chair: Are we ready to vote? All those in favour of section 47? Opposed? Carried.

Section 48.

Mr Wood: I move that subsection 48(1) of the bill be struck out and the following substituted:

"Forestry futures trust

"(1) If the forestry futures trust is not established under the Crown Timber Act before this act comes into force, the minister may establish in writing a trust to be known in English as the forestry futures trust and in French as fonds de réserve forestier.

"Same

"(1.1) If the forestry futures trust is established under the Crown Timber Act before this act comes into force, the trust is continued under the name forestry futures trust in English and fonds de réserve forestier in French."

Just briefly, the forestry futures trust fund is established under the Crown Timber Act, as amended by Bill 160, the Budget Measures Act, 1994, to carry over without change. The reason for the amendment is to permit the forestry futures trust fund established under the provisions of the Crown Timber Act to be carried over as a forestry futures trust fund under this bill.

The Vice-Chair: Any debate?

Mr Brown: No, other than to ask the parliamentary assistant—this is obviously just a transitional clause. Are there any forestry futures trusts set up?

Mr Wood: Maybe I should have gone one step farther. The bill currently makes no provision for that, and this is the reason for the amendment.

Mr Brown: When we amended the Crown Timber Act in the spring to put these trusts in place, isn't that

what this is doing? If the trust was not established under the amendment to the Crown Timber Act that we made in June, then this permits it to be set up is all I'm saying. Are there any established under the Crown Timber Act?

Mr Wood: It's just a transition, from what I understand, that we're carrying over so it will be clear in Bill 171.

Mr Brown: But my question is, if they weren't established—I mean, that's what this is about. If they weren't established, this permits them to be established, because this bill will supersede that when it's in place. Are there any in place now?

Mr Wood: My understanding is that it will save having to re-establish the trust funds.

Mr Brown: Yes, well, if one's in place it continues. I'm asking, are there any in place?

Mr Wood: There's a certain potential cost of re-establishing if we didn't—

Mr Brown: I know. I'm just asking, are there any in place today?

Mr Wood: Possibly one.

Mr Brown: Possibly one. Now, for those operating in 1994, what this really requires is half the area fee goes to the forestry trust, as I understand, to your area charge. Half of it is going to be put into the forestry trust. Now if that's the case, will the area fees from March 31, 1994, or April 1, whatever it is, will that money be deposited into the futures trust, half of the area fee?

Mr Wood: I think it's very similar to the question you asked before and I said that I'm going to have to get a detailed answer on that.

Mr Brown: All right. Thanks.

The Vice-Chair: Ready to vote? All those in favour of Mr Wood's amendment to subsection 48(1)? Opposed? Carried.

Further amendments to section 48?

Mr Brown: Mr Chair, I believe they're voting on my resolution in the House right now. If I could, since we have about three minutes, could we adjourn—

The Vice-Chair: Do you expect a vote to take place?

Mr Brown: Yes, they're putting the question right now.

The Vice-Chair: Is it agreeable that we adjourn at this time and come back this afternoon? Agreed.

This committee stands adjourned until this afternoon after routine proceedings.

The committee recessed from 1200 to 1552.

The Vice-Chair: Seeing a quorum present and members from all three parties, this committee will now continue its clause-by-clause consideration of Bill 171. This morning, we were discussing section 47. Is there any further debate on section 47?

Clerk of the Committee: We've already passed that.

Mr Brown: We passed it.

The Vice-Chair: We passed section 47?

Clerk of the Committee: Yes, we're on 48(2), Mr Brown's amendment.

The Vice-Chair: I'm sorry, we've passed section 47. We are on Mr Brown's amendment to section 48. Mr Brown, did you have further comments?

Mr Brown: I haven't made an amendment to section 48.

Clerk of the Committee: No, you have not moved it yet. Read it first, please.

Mr Brown: I move that subsection 48(2) of the bill be amended by adding the following paragraph:

"3.1 The funding of forestry research."

As members will remember, when we were having our hearings in Thunder Bay, Lakehead University came before us and one of the items that it was very concerned about was the fact that forestry research and practical forestry research could not be funded out of the forestry futures trust. What we are doing with this amendment is permitting that use of trust moneys to take place.

We are making this amendment with some concern. As members will recall, the Liberal Party had placed an amendment requiring some portion of the stumpage fee to be directed to the forestry futures trust, rather than just that being a share of the ministry portion of the forest renewal trust to the forestry futures trust, which would have substantially increased the amount of money that would be available in the forestry futures trust. That is why I am addressing some concern about my own amendment, in that I'm concerned that the funding mechanism that we were envisioning being in place the government chose not to make part of the bill.

Nevertheless, I think the possibility of providing for research out of the futures fund makes good sense, at least in a permissive way, for the future of Ontario's forests, which is what the forestry futures fund is about. The fund itself is about renewal of areas that may have either been improperly harvested and not renewed at some point in the far distant past or are victims of some natural catastrophe, a forest fire, an insect infestation or some other natural calamity.

I think it's clear that there may not be enough money in the fund as it is, but there should be some opportunity for the fund to direct moneys to forestry research. As I said, Lakehead University and others have been particularly interested in having some money available from this fund, and it seems that, at least in a permissive way, the forestry futures fund should have some ability to do that, hence the amendment.

Mr Wood: I'll just indicate that the amendment as brought forward is not acceptable in its form. The intention of that section is more for natural disasters and funding of that kind. I also believe that when we get to the next amendment it will clarify it more. We have an amendment under subsection 48(4) that will clarify the situation.

Mr Brown: I'm surprised by the government's reply. This doesn't require any money to be spent on research; it just permits it to be spent on research. It seems to me that if you're talking about the future of Ontario's forests, one of the most necessary components of that is to have good research conducted so that we can be constantly improving the way we renew and harvest our forests. You

think of the development of new species or you think of new ways of reforestation; could be new ways of seeding, could be a multitude of different things. It seems all this amendment does is make it permissive.

I don't understand. The parliamentary assistant has argued all the way through this bill that the most permissive and most discretion is the best, and all we are doing here is providing that permission. Could there be some reason given for not making it permissive?

Mr Wood: We believe that it is there without having to have your wording there, Mr Brown.

Mr Brown: You believe that this is permitted?

Mr Wood: If you look at paragraph 48(2)4, that would basically cover it.

Mr Brown: "Such other purposes as may be specified by the minister," which could be anything. Well, I suppose that argument could be made, but I'm sure the people at Lakehead University in the research department are not going to be thrilled with that sort of approach. But that's the explanation I've got.

The Vice-Chair: Are we ready to vote? All those in favour of Mr Brown's amendment?

Mr Brown: Could we have a roll-call vote on this, Mr Chair?

The Vice-Chair: You want a recorded vote? Recorded vote. All those in favour?

Ayes

Arnott, Brown.

The Vice-Chair: All those opposed?

Nays

Dadamo, Hope, Wessinger, Wood.

The Vice-Chair: The amendment is lost. Mr Wood, you have a further amendment to section 48.

1600

Mr Wood: I move that subsection 48(4) of the bill be amended by striking out "in accordance with the regulations" in the third line and substituting "as required by the minister."

This is basically a cleanup, to tidy things up, to change the wording to "as required by the minister" instead of "in accordance with the regulations."

Mr Brown: That particular amendment puzzles me somewhat in that we would think that to be passed into regulation, it has to be approved by cabinet. We are then devolving that responsibility directly to the minister, or the ministry through the minister, which gives the ministry far more leeway than he or she had before. What would be the reason for vesting more power in the minister rather than in the regulations? I think it would make a number of people a little nervous to know that at a minister's whim they're going to change the way these funds can be managed.

Mr Paul Wessinger (Simcoe Centre): If I might speak from some experience of having sat on the legislative and regulations committee of cabinet and the number of regulations that have to go through, I think there's some interest in streamlining processes by having more routine items dealt with through ministerial order rather

than through regulations. The more we do through regulations on administrative matters, the more we're cluttering up the whole regulatory process.

Certainly, having sat on that committee, we have many times made recommendations to particular ministries that matters be dealt with other than through regulation, particularly when they're administrative matters and they're not policy matters. We think really regulations should deal more with policy matters and ministerial orders should deal with administrative matters.

Mr Brown: But I think that's precisely what causes some concern, especially in this case. This act is accompanied by, and I didn't bring them this afternoon, four manuals and a set of regulations. We have over 1,000 pages of accompanying documentation to this particular act which informs our view, because the act is so permissive as it is that, without being able to read the regulations, without being able to look at the manuals, we have a great deal of difficulty in understanding what exactly it is that the minister wants done in Ontario's forests.

What some people call streamlining, as Mr Wessenger says, looks to other people like a lack of due process. If we could be assured that this would only involve administrative matters, I might be happy. But we're talking about payments of funds. They are very large amounts of dollars. We're talking about half the area fees here that are charged to Ontario companies or individuals working in Ontario's forests being dedicated to this fund; if memory serves us, I believe in the neighbourhood of about \$15 million.

We're not talking about small matters. The change of administration even and the way that is done, in terms of how the fees are paid, can have a large impact when you're talking about \$15 million.

Mr Wood: I understand that there are natural disasters that occur from year to year. We just heard about one that happened in the forests in Quebec. The reason for changing this particular wording is that it'll give the minister the opportunity to be able to deal with those situations fairly quickly and handle them in a good way. But it might have to be dealt with there under the amendments.

Mr Brown: I understand your point. I don't understand, though—we're talking in this section about paying the fees. We're not talking about expending the fees or expending the moneys in the trust, so I'm not certain how that would work.

For example, just by requiring area fees to be paid at a different time, when you're talking the kind of dollars this could amount to by just shifting it three months, the change in the interest on \$15 million is considerable to each company that might be operating here. This would permit the minister just to decide, "I'd like this to happen a little sooner," or "I'd like this to happen a little later." I'm just wondering, when you're talking about that kind of money, why it's not a regulation. That's how it's normally done, I believe.

Mr Wood: The money flows both ways. When you're harvesting, even if it's a disaster, there's money flowing in and there's money flowing out for regeneration.

Mr Brown: But it's not flowing out under subsection (4), it's flowing in.

Mr Wood: Yes.

Mr Brown: I'm a little reluctant to believe that we should give that power to the minister, I guess. I would much prefer it to be governed by the regulations, but I will say no more.

The Vice-Chair: We'll move on. Are we ready to vote? All those in favour of Mr Wood's amendment? Opposed? Carried.

Mr Arnott, do you have an amendment?

Mr Chris Hodgson (Victoria-Haliburton): Yes, he does.

Mr Arnott: I move that subsection 48(8) of the bill be struck out and the following substituted:

"Annual report

"(8) The trust shall report annually to the minister on the financial affairs of the trust and the minister shall table the report in the Legislature."

It is a very self-explanatory amendment, which again enhances, I think, the accountability of the trust to the Legislature.

The Vice-Chair: I like self-explanatory amendments. Are you ready to vote? Mr Hodgson, further explanations?

Mr Hodgson: Yes. Thank you very much, Mr Chair, for your leniency in permitting me to speak here again today.

The trust as it's presently set up reads that it just goes to the chair of the treasury board. These trusts are an integral part of showing credibility in our silviculture regeneration of our forests.

I can't see where the harm would be to just have the minister report annually on the financial affairs of the trust to the Legislature. It gives more public credibility to the sustainability of our forests to have it go directly to the Legislature than just to have it buried in a report to the treasury board.

It's a friendly amendment, as you can all see, and I'm looking forward to the support of the government members on this.

The Vice-Chair: Any further debate?

Mr Wood: I'd just make a comment that, without shooting your amendment down, we feel that the one we have is very similar, coming up right afterwards, and our priority is to have that one, based on the advice that we're getting.

Mr Hodgson: Is it the same?

Mr Wood: Yes.

Mr Wessenger: Mr Chair, just some clarification: What is being struck out in 48(8)? Is anything of significance being struck out? I notice your amendment is (8.1) and the Liberal amendment is similar to (8.1). They all say roughly the same thing, but the PC motion is striking out 48(8), and the other is adding.

1610

Mr Hodgson: Do you want me to answer that, Mr Chair?

The Vice-Chair: This was a question to Mr Wood.

Mr Wessenger: Yes, if you could answer that.

Mr Wood: Well, there are amendments from all three parties on this one here. The one we are suggesting is the one that the government has brought forward. They're very similar in nature and that is the one that we prefer "adding the following subsection."

Mr Wessenger: I wonder if I could have a copy of the act.

Mr Hodgson: While Paul gets a copy of the act, I'd just like to ask the parliamentary assistant what the difference is between the government amendment and Mr Arnott's amendment, the PC amendment.

The Vice-Chair: Mr Wood?

Interjection.

Mr Hodgson: Yes. In practical terms, what's the difference?

Mr Wessenger: I'd be happy to answer that one.

Mr Hodgson: It's up to the Chair.

The Vice-Chair: Mr Wood has the floor.

Mr Hodgson: It's fine with me if Paul wants to answer that or the parliamentary assistant.

The Vice-Chair: The parliamentary assistant is free to refer it to anyone.

Mr Wessenger: I've just read the existing—

The Vice-Chair: At this point Mr Wood has the floor.

Mr Wood: What we're saying in this particular one is that both the PCs and the Liberals have brought forward amendments on it, but the one that we have brought forward to add on to it, 48(8.1), is cleaner, tidier and one that the government is recommending that we proceed with.

The Vice-Chair: Your amendment's unclear, you say?

Mr Hodgson: You missed the words "progressive and more enlightened." Normally that's added on to every statement. In practical terms, is there a practical difference between the two amendments?

Mr Wessenger: They don't want to offend the chair of the treasury board by taking him out of the circle. That's obvious.

Mr Hodgson: Oh, okay.

Mr Wood: What you're saying is to strike out and we're saying that we'd like to add to it.

The Vice-Chair: Okay, are we clear now?

All those in favour of Mr Arnott's amendment? Opposed? The amendment is lost.

Mr Wood, you have an amendment.

Mr Wood: Yes, and we're talking about the same section.

I move that section 48 of the bill be amended by adding the following subsection:

"Tabling of report

"(8.1) The minister shall submit the report to the Lieutenant Governor in Council and shall table the report

in the Legislative Assembly."

Mr Brown: I would just like to indicate that the government is very farsighted and really, I think, and it is frightening, actually sharing our view on this as our amendment is exactly the same as the government's.

The Vice-Chair: Seeing that we're all in unanimity, can we vote? All those in favour of Mr Wood's amendment? Opposed? Carried.

The next amendment, of course, does not need to be debated, because it's the same. Is there any further discussion on section 48?

Mr Brown: We skipped over, as we were doing the amendments, some rather important sections of this bill. I refer to subsection (6) where it says, "The minister may establish a committee to...." I'm wondering what the composition of that committee will be. Has the government given thought to exactly how that committee is to be composed?

Mr Wood: We're looking at what people we need who have scientific knowledge and what should be done with the funds, a knowledge of that. So they're looking at the committee makeup right now and putting it together.

Mr Brown: I think it's of some concern out there, at least I know it's of some concern because I've had the question asked of me what the composition might be. There's a view out there that it should be predominated by the industry which is actually paying the fees. There's a view out there that it should be dominated by the industry, which is actually paying the fees. There's a view out there that it shouldn't be dominated by the industry, it should be dominated by other groups.

I wondered, in the government's view, how they saw it. Will the majority of the committee be from the companies directly involved in this or will it be from academia, citizens' groups, people with other views of the forest? What I really want to know is, will the industry be the majority on the committee or will the industry be part of the committee?

Mr Wood: There's no doubt about it, you're going to have to have a balance on that in order for it to work, Mr Brown. That's quite obvious to me. I don't think it can be weighed one for or one against. Whether it's a majority or minority, I think it's going to have to be a balanced committee that will work and get the job done.

Mr Brown: Is that 50-50, the industry is half and other groups are half? What does that mean?

Mr Wood: I don't know if that has been decided or not yet, but you need people out there who have the experience, and they're going to work for the betterment of making sure the reforestation is done.

Mr Brown: Sometimes people have different views of what the betterment of the forest might be. It would seem to me that we should have some idea what the government's intention is. Is it like kind of a glorified citizens' committee, as we're talking about with the other citizens' committees that are mentioned in this bill, or is it to be—because this committee has real power. They've got \$15 million, more or less, I guess, depending on what area fees tend to be in the future. It's significant to make

recommendations about how you spend \$15 million. People can get quite exercised about the expenditure of that kind of money.

Mr Wood: The goal is that we end up with the best silviculture being done out there. As I said earlier this morning, people who have experience on the ground and know what they're doing, these are the people who will be on those committees for the betterment, so that we have forests for the next hundreds or thousands of years on a continuous basis.

Mr Brown: I'm not disputing that. It's just that people have different views of what the betterment of the forest is. Sometimes—more often than not as a matter of fact—the representation on the committee will determine what the betterment is. You would give us a far higher level of comfort if we had some idea of how the government was, in a broad policy way, viewing these committees. It's fine to say that we'll only appoint people who want a better forest. That's nice, but there are a lot of different views out there, as we know, about what's a better forest.

Mr Wood: I think there's no doubt about it, the comments that you've brought me here today and the other comments that might be, we're going to have to take them all into consideration as the committee is being formulated and finalized. You have the government, but you also have both critics for the Liberals and the Conservative Party. We need input from you people on that.

Mr Brown: Are you suggesting that Mr Hodgson and myself and the minister are going to sit down and set the criteria for who's appointed?

Mr Wood: Well, we've never refused to listen.

Mr Randy R. Hope (Chatham-Kent): Write it down on paper and send it in.

Mr Brown: Good idea, Mr Hope.

1620

Mr Wessinger: I have a question that perhaps might help; I'm hoping it will clarify. I would assume that this is a committee that is going to make fairly technical advice and I would assume that on that basis the people that will sit on the committee will be those who have expertise. I'll ask that question: Is this committee going to consist of people who have expertise in this area?

Mr Wood: Yes, experience on the ground.

Mr Brown: That's helpful, that's a new thought; what we're talking about is technical people. Is this a committee then of technical people, people who would be registered foresters? If there's anyone who knows about forests it's got to be foresters. Is this a technical committee made up of foresters?

Mr Wood: As I said earlier, the discussion that has been taking place here, that's all going to have to be taken into consideration as we develop the committee.

Mr Hodgson: This has opened up a whole new issue that sort of ties in with the spending of money. How quickly do you envision this committee—it will have to be along the lines of a citizens' committee, I would think, in deference to Paul's suggestion that it be made up of technical people. These citizens' committees are funda-

mental in drawing up the management plans for an area.

If a natural disaster goes through, the concern I have about this is, how quickly are we going to be able to react? For instance, if you draw up a five-year plan, you've got your futures funds set up and there's a natural disaster, it's not just a matter of going in and replanting the trees. In lots of cases there's a lot of value left after a natural disaster and if we have to go through a review of the five-year plan and have ministerial approval on it, that wood will rot on the ground before you've gone in and taken it off.

This futures committee could be flexible enough to achieve some economic viability from it.

If, for instance, there's a drought, you'll have trees that will die standing up. By the time you go through the whole process of amending the management plan for that area that timber is effectively rotten in the bush, whereas you can create a lot of employment on the smaller crown units by having the local offices have enough discretionary power with the citizens' committee. If there's silviculture required or money to be spent after that, then I would see that those two committees would get together and say, yes, we can act here rather quickly.

There should be provision in this act to allow local people on the ground to amend a management plan in light of a natural disaster. If that's being addressed in the planning manual and if that's come up in the workshops, let me know because in our area—I'm not talking about the large FMAs or the huge crown units, we're talking about small management units where they draw up a five-year plan and yet there'll be a natural disaster in year two and it's not flexible enough to allow the local area people to say, yes, there's still some value here. That value could go back into the futures fund if it wasn't envisioned through the regeneration of the stumpage. Those two committees are going to have to work closely together to allow that flexibility, in my opinion.

If you're talking about just getting technical people in, how is that going to affect what the public's sort of grown accustomed to, an open process with lots of appeals? There's going to have to be some kind of override provision for natural disasters and what you determine natural disaster.

Mr Wood: These situations, I understand, are handled in the forest management planning manuals, so a lot of the answers that you're looking for here have been covered as we drafted the manuals. There's a place for amendment that you can act immediately in situations of natural disasters.

Mr Hodgson: Okay. I would envision then that the answer to the question would be more along the lines of a consistent approach to this, that if you've had a natural disaster and it requires money from the futures fund, that would somehow fit in or work with the local citizens' committee group and the local MNR people and the registered forester who drew up the plan and there'd be a coordination.

Mr Wood: There's room for it to act immediately. The language is there in the manuals.

The Vice-Chair: If I just could be helpful, we do

have another 30 sections, approximately, to discuss things.

Mr Hodgson: The detail is very important.

The Vice-Chair: We will have a vote. We will have to adjourn at around quarter to 6, since we do have a vote in the House today.

Mr Brown: This particular issue is causing me greater concern all the time. As I understand it, and maybe the parliamentary assistant can help me here, there is but one forestry futures trust. That's correct? There's one for the entire province, rather than in the case of FMAs, where there's one for each management area and whatever, so the renewal funds and the reforestation funds flow to a specific unit.

In this case the money all comes to one central fund. What you could be weighing, as Mr Hodgson has pointed out, is that there may be a natural disaster in Mr Hodgson's area, there may be one in my area, there may be one in your area, and somebody is deciding about this \$15 million, about who gets what share of the pie if \$15 million isn't enough to cover them all adequately, and that could very well be the case; hopefully it's not, but you never know these things.

So the composition of this committee seems to be, I think, of a lot of concern, because if you read this, it says in clause 48(6)(b):

"The minister may establish a committee to...(b) issue directions to the trustee on how much of the funds of the trust shall be paid out in any year and on what payments to make from those funds to best carry out the criteria established under subsection (5)."

First, I think it's remarkable legal wording, but nevertheless, it suggests to me that they're actually making the direction of the funds. It isn't that they're advising the minister and the minister's then going to say, or advising cabinet and cabinet's going to say; they're actually going to direct the money. So who it is who's in charge of \$15 million of public funds is of great concern to everyone.

The bill appeared before the Legislature sometime in June and was passed sometime in June. We've gone through three weeks of public hearings in the summer and then a week of clause-by-clause. We're now five months into the process legislatively and, frankly, I'm shocked the government has no idea on how it's going to appoint trustees, who these people are.

Mr Wood: Well, the discussion is taking place with all of the stakeholders out there to establish them. The discussion that has been taking place here is going to be very helpful, I'm sure, as the committees are being set up. Those discussions are taking place out there right now as to the makeup of the committees.

Mr Hodgson: I'd just like to follow up on what Mr Brown said. It reads to me as if you're giving—first of all, "The minister may establish a committee," then you're turning around and saying that politically the minister might not want to establish a committee because then he'd be held accountable for who receives the money in any one given year.

So you turn around and hand that to a committee to take the political heat if there have been four disasters

and you only have enough money for three.

I'd just like to know if the parliamentary assistant has been privy to any of these discussions on the wording. Was it designed to give the minister that kind of latitude that he could somehow become unaccountable for the spending each year of the futures fund in cases of disasters?

Mr Wood: There are a lot of situations out there where the minister needs advisory committees. He's going to set the criteria, and then the committee is going to be advising him on what's out there, and then they'll report annually on the situation of the trust.

1630

Mr Hodgson: But my concern here is that we're going to set up another bureaucracy to handle what is essentially, if all things are done rationally—and I would assume a natural disaster would be determined by the local citizens' committee, the local MNR staff. They would report, put in a claim, to the futures fund that, "We've had a natural disaster."

The funds for paying this committee—the trustee is fine; I have no complaint about that. The money should be looked after; it should be reported to the Legislature or the Attorney General through the treasury board chairman. It's fine with me. However, then you're going to set up a committee which may be just a political out for the minister having any responsibility for which site was selected, or is it going to have some real teeth?

What's the purpose of this, if you've allowed the minister so much flexibility? Does this mean that he could set the committee up, we'd pay for it for one year, but if he didn't like the decisions, he could change it and go to clause (a)? Or just subsection (6), where it says he "may establish a committee"? Once established, can he disband it? I don't know; I need some clarification on that.

Mr Wood: You're referring back to subsection (5): "Subject to the terms of the trust, the minister shall establish criteria to be used in making payments from the funds of the trust."

Mr Hodgson: Right.

Mr Wood: This whole process is taking place right now as to the makeup of the committee; the stakeholders are being discussed.

Mr Hodgson: That's my point. You're going to have a criterion. A local area, a forest management unit or local staff will make an application based on that criterion, that, "We've had a forest fire in one quarter of our management unit." They'll put in a claim to have some money from the futures fund to regenerate that natural disaster.

Then on top of that you're going to set up another bureaucracy to decide between two equally competing natural disasters that fit the minister's criteria to determine which one gets funding, if there's not enough money to cover both?

Mr Wood: I don't know what arguments I can use to convince you that the plan as spelled out in here we feel is going to do the job. There have been no amendments brought forward by either the Conservative caucus or the Liberal caucus on this particular one. Other than the

arguments we're hearing right now, I've tried to convince you that yes, it's going to be handled out there. The debate that we're having and your concerns are all going to be addressed as they establish the committee out there and try to make sure that natural disasters are looked after and that we do have a forest out there that will grow for future years as well.

Mr Hodgson: I follow that, Mr Wood. Just one quick question—

The Vice-Chair: In all fairness, I do think we've had a pretty extensive discussion now on this issue. Frankly, I don't see too much progress happening. If we can kind of close the debate on this section, I think it will be appreciated.

Mr Brown: Mr Chair—

The Vice-Chair: Mr Brown, I do think we've had a quite extensive debate on this.

Mr Brown: That's not your decision to take, Mr Chair.

The Vice-Chair: I think the decision of the Chairman is to give a reasonable amount of time to each section, and very soon I think that reasonableness will have been exhausted.

Mr Brown: First, I may take exception. I understand that the Chair believes that we should move on in an expeditious way, but I think the points that we are raising are important points and I think the attempt by the Chair to—I mean, there is a method in committee to cut off debate, if the committee itself chooses to do so. It's not up to the Chair to decide whether we've talked enough about it.

I come back to this: Could the parliamentary assistant tell me, will the members of this committee be subject to the order-in-council process? Will they be named through order in council or will they be named just by the minister?

Mr Wood: I understand that they'll be named by the minister.

Mr Brown: We have a situation where the names of the people who are appointed to this committee would not be subject to order in council and therefore there would be no necessity of disclosure of who's even on this committee because it doesn't go through the order-in-council process.

Orders in council are public, but this process would be just—I want to stress here that this committee isn't a committee to provide advice. It does provide advice on the criteria, but in (b) it directs the trustee. It isn't advising the minister to give so much money to a particular area; it is actually making the direction. We have here, in my view, a tremendously unaccountable committee and I think we're asking quite legitimately, what are the criteria for appointment? What kind of balance will be on this committee?

The parliamentary assistant is a fine fellow and I trust him implicitly and explicitly, but I think the people want to know that he will not always be the parliamentary assistant; 20 years from now maybe someone else will be. The minister may be someone else either tomorrow or 10 years from now, so we're not talking about personalities

here. It's not a matter of whether the opposition trusts you or trusts Mr Hampton. It's a matter of whether the legislation will require public accountability.

Mr Wood: We're working on the committee right now. There's no doubt that the annual report will carry the names of the people who are involved in that, I'm sure, because there have to be some names put on the report. We're being asked for it to be developed now and we believe that it'll work.

The Vice-Chair: Mr Hodgson.

Mr Hodgson: Thank you very much, Mr Chair, for your leniency. I just have one quick question, in the interest of time, which we've been reminded of, to the parliamentary assistant: Why is it so vague? Why not in (6), where it starts out, "The minister may establish a committee to," make it so he has to or he doesn't? It gives the minister some latitude, but then it gets even more vague:

"(a) advise the minister on the criteria referred to in subsection (5); and

"(b) issue directions to the trustee on how much of the funds of the trust shall be paid out in any year...."

There's been a lot of thinking, I'm assuming, behind this bill. What's the thinking behind leaving the minister this arbitrary discretion? Either he's going to be accountable or he isn't going to be accountable.

Mr Wood: The particular section that is being spelled out here, I understand that there are no amendments brought forward at this point in time by either the Liberal or the Conservative caucus, changes to it, and there were none brought forward by the government. It's the original language that was drafted. It's been out there now since June 1 and there was no concern or reason for amendments coming forward. This is why I'm surprised that we're having a lengthy discussion on something that there was no real concern on.

Mr Brown: If I can be helpful to the parliamentary assistant, that's exactly why we go through the bill clause by clause and don't just examine the amendments. We are supposed to be responsible for and are charged with the responsibility of examining every clause and sometimes there are things you haven't thought of. This particular issue appears to be one of the more important ones.

Frankly, I think one of the reasons the opposition has not been—we've been remiss in not doing it. At least I can say that about myself. We should have looked at this more carefully.

1640

This section of the bill was part of amendments to the Crown Timber Act back in the spring. I know from our point of view it's already in the legislation, so we didn't give it the scrutiny that it probably deserved. It may be one of the best reasons for not adopting omnibus legislation in the Legislature that I know of. I think if we had examined this more carefully when we adopted the omnibus bill in the spring, maybe those questions would have been raised by us in a more timely way from your point of view and maybe we would be getting better answers now.

I'm suggesting that this section might be better stood down until the government can at least give us a policy direction on how it intends to use it. Would the parliamentary assistant be amenable to that suggestion, that we stand it down until the committee meets next so that we can further understand how this is to happen?

Mr Wood: No. As far as we are concerned, the accountability is assured on this particular section through the report to the Legislature. The accountability is there.

Mr Brown: I want to commend the ministry on a recent announcement that was made, the agreements that were made with Avenor and E.B. Eddy. The ministry is quite right in being very happy about those agreements, but those agreements I believe involve about 10 million acres—I think it's acres; it might be hectares—of crown forest. That would represent a couple of million dollars to the forest futures fund, a considerable amount of money.

While we've been talking about natural disasters, I think in many years we don't have natural disasters of the kind of scope that would use \$15 million and therefore we would be using them to do silviculture in areas that should have had it done a long time ago. I would expect that the people at Avenor and the people at E.B. Eddy, who have contributed huge dollars through area fees to these funds, may have an interest to see a fair bit of work done on their lands rather than on another company's lands.

I just can see that there's an opportunity. Obviously, more reforestation work done on the lands you have tenure on is going to be in your long-term interest, so everybody will be competing for those dollars in terms of silviculture. I'm just trying to get a handle on how that's going to be allocated, because I can see, and I think most members should be able to see, that this will not be a committee that will make easy decisions. They could be very contentious.

Mr Wood: They'll be tough decisions, but we'll have the people there who can make those tough decisions.

The Vice-Chair: Are we ready to take the tough decision on approving this section?

Mr Wood: Yes.

Mr Brown: Well—

Mr Hodgson: Just one comment: It's not a tough decision to set up a body that would say no and allow the minister then to say yes with all the good news, and on the bad news it will be, "The committee made that decision." If that's the intent, that's all I want to know. That's why there are no amendments to it. We just wanted a clarification on why you're setting up this committee.

If it's just an added expense to the taxpayer to avoid political accountability, I don't think it's going to be very effective, because to companies like Avenor or just the general public, they're still going to hold the minister accountable. These decisions are going to be basically made on a technical basis. We have the staff within the ministry already to advise the minister on which ones should have priority and which ones shouldn't. Why are we setting up another bureaucracy to take the political

heat off the elected official? It's going to take it completely out of his hands; they're going to, under clause (6)(b), issue directions to the trustee on how much of the funds and where they go in a given year.

They're not going to be accountable only to the minister. I just want to know if it's envisioned under subsection (6), "The minister may establish a committee," that if one year they make a bad decision, that means you've got discretion to do away with the whole committee. Does he have the latitude the next year to say that under subsection (6), "The minister may establish a committee," so therefore he may not have a committee the following year after he set it up? That puts a tremendous amount of political pressure on people who are supposed to make the rational choice.

I think it's an added expense unless you clarify it right out that (a) he should have a committee and (b) here are the criteria that they are selected from and (c) that the appointments are going to be accountable to the Legislature. Otherwise you're just going through a huge expense to take the political decision one step away from the minister to a group of people who won't be accountable.

Mr Brown: We may not even know who they are.

Mr Wood: The only comment I would make is that we are committed as a government to the sustainability of the forests, and this particular section deals with a way that we feel is important to achieve that goal. Whether it be through harvesting of the forest or through natural disasters or whatever, the sustainability of the forests should be done and will be done. We feel that these sections are needed to accomplish that goal.

The Vice-Chair: Okay. I guess we're ready to vote. All those in favour of the amended section?

Mr Brown: Recorded vote, please.

The Vice-Chair: All those in favour of the amended section 48?

Ayes

Dadamo, Hope, Wessinger, White, Wood.

The Vice-Chair: All those opposed?

Nays

Arnott, Brown.

The Vice-Chair: The section is carried.

Section 49: No questions on 49? Mr Brown.

Mr Brown: I take it in section 49—maybe the parliamentary assistant could clarify this—this means that a mobile facility is included? I believe it does. I just want the clarification.

Mr Wood: In my interpretation, the facility needs a forest resource processing facility, whether it's on cement piers or whether it's on tires. I think we had this discussion when we were going through committee on the road, travelling. You have complete paper mills that are floated down some of the huge rivers. They moved them to the resource rather than bringing the resource to the mills.

Mr Brown: So it does mean mobile. It includes mobile.

Mr Wood: I think it's going to be probably clarified

further in the regulations, but in my interpretation, yes.

Mr Brown: That's fine.

The Vice-Chair: Okay, we're ready to vote on 49. All those in favour of section 49? Opposed? Carried.

Section 50: Mr Brown.

Mr Brown: I move that section 50 of the bill be amended by inserting "significantly" before "increase" in the second line.

The amendment is just to provide some latitude in operations. The section says, "A person shall not operate or construct a facility, increase the productive capacity of a facility or convert a facility to another type of facility except in accordance with a forest resource processing facility licence issued under this part."

Well, what's "increase"? We think you should add the word "significantly." As the parliamentary assistant would know, there is tremendous change going on in the forest products industry in general, particularly in the pulp and paper business, as they adapt to new environmental regulations etc. It seems to me that any increase, which is the way I read the bill, as you change processes, as you change equipment, I can understand that you want to regulate them, but minor changes I think are counterproductive from the government's point of view. I would suggest that just adding the word "significantly" would help the administration of this particular section in a useful sort of way from the ministry's point of view.

1650

The Vice-Chair: Do you want to respond, Mr Wood?

Mr Wood: Yes, just briefly. First of all, I want to clarify that the amendment is not acceptable, because we feel the word "significantly" can be better addressed in the regulations by the MNR policy than having it as an amendment in the act. Really, it's too subjective when used in the act. So we're recommending clarification through the regulations and policy rather than an amendment in the act, Mr Brown.

Mr Brown: I appreciate that, but I would wonder that you can address it through the regulations if you say "increase" without any kind of modifier to that word. If you don't modify it, I don't know how you can draw a regulation that would permit one more stick of wood to go through that plant through the regulations. I know it's a vague word, but without that word that is a little bit undefined, I don't know whether you'd get the authority to permit any change that would involve an increase.

Mr Wood: Well, we don't feel that adding the word "significant" or "significantly" in the act is going to address the concern that you have. We feel we can address it in the regulations and by MNR policy out there.

Mr Brown: But what I'm suggesting to you is that "increase" is a very clear word. Increase is increase. "Increase" means anything more. So I'm suggesting you would not have the authority within the regulations that flow from the act to make any kind of regulation that would permit a very minor increase to take place. How would you do that? How would you have the legal authority to permit an increase when the act says you can't?

Mr Wood: The word "significant" or "significantly" is not going to address your concerns as far as I'm concerned.

Mr Brown: At least it gives you the latitude I hear you saying you want. You have no latitude under the way the act is written. Zero. I'm trying to be helpful here, as I always do. Can you explain to me how a regulation can permit an increase that the act says doesn't?

Mr Wood: If you're talking about a forest resource processing facility licence issued under this part, the conditions can be put into the licence, which would deal with the situation that you're talking about.

Mr Brown: What I'm saying is, if you do that, there's got to be an upper limit to what you've permitted in a licence. So if I move above that even the tiniest bit to take advantage of a process or market condition or whatever, then I've got to come back to the ministry at that point and get a new licence. That's probably a waste of time from the ministry's point of view, it certainly is a waste of time for whoever is making the application, and probably will cost everybody a lot of money for a situation that people should just be able to say, "Well, that's okay."

I know in the former act and in practice there was kind of a plus or minus 10 that was often used — maybe I'm wrong — in terms of harvest numbers that could be used in some cases. I'm just wondering how the regulations can accommodate something the act does not seem to accommodate.

Mr Wood: Section 50 deals with the licence. "A person shall not operate or construct a facility," or increase the productivity. I mean, we're talking about at least three different conditions there on that.

When we're talking about the sustainability of the forests, we don't want people out there building facilities that have got no permission to cut or no licences, we don't want them doubling the capacity of their production or we don't want them doing things of this kind without other people knowing what's going on and being able to deal with them on a sustainable basis. That's why we're not supporting the word "significant" or the word "significantly" before the word "increase."

Mr Brown: Well, that's not terribly helpful, but I'll surrender.

Mr Wood: Thank you.

The Vice-Chair: Further debate? All those in favour of Mr Brown's amendment? Opposed? The amendment is lost.

Mr Arnott, I think you have an amendment.

Mr Arnott: I move that section 50 of the bill be struck out and the following substituted:

"Licence required

"50. A person shall not operate or construct a facility, significantly increase the productive capacity of a facility or make a significant conversion to a facility, except in accordance with a forest resource processing facility licence issued under this part."

The Vice-Chair: Do you want to comment, or it's self-explanatory?

Mr Arnott: It's self-explanatory. It's also very similar in substance to the motion that we've already discussed, and the need to provide further clarification — it's self-evident.

The Vice-Chair: Thank you. I appreciate that.

Mr Hodgson: I would just like to add that this is a helpful amendment that Mr Arnott has put forward. It's to help our industries. You know that we have a lot of competition from outside our borders in the wood industry, and if we want to modernize our plants, we want to have them so they operate in an environmentally sound manner, and as new products come on that make this more efficient and more environmentally friendly, our plants should be encouraged to do this.

If they are faced with having to go through a long and tedious licensing process for every little change they make to their mill, I think that would have the opposite effect to what the government's trying to do in encouraging our industry to modernize and keep up with the latest techniques.

That's where I think every little change shouldn't have to go through regulations and inspections and things like that. If there's a significant change or a conversion, then I feel that's fair, that people would look upon that as, yes, that's the government's role to come in and regulate that and ask for an update on their licence. But for just an increase? That's a little draconian.

I think the word "significant" should be in there to leave the local field officers and the MNR a bit of latitude in discussion. We're paying these people salaries to follow government policy and people know the intent of this bill. We should authorize our employees to use their discretion in the field.

1700

Mr Wood: Just briefly, we just went through the argument when we were talking about the word "significantly" or "significant." These terms and conditions are set out in the licence when the licence is issued to the operator, and the same argument holds.

Mr Brown: Of course, we see a lot of merit in Mr Arnott's amendment, which is similar to the one I just argued, other than that it also makes reference to conversion of a facility. I frankly don't know why MNR wants to nitpick that much. That's what we're talking about here. We are just asking that there be a little flexibility to take advantage of the huge capital spending that's going on in the industry right now as we speak to comply with environmental regulations and to upgrade and make more competitive their own operations.

It just seems to me that around the edges, on the small points, we shouldn't be putting our employees in a position to have to go worry about every little change; significant ones, yes; ones of some import to the industry, of course. We're just looking for latitude, and I think Mr Arnott has made a valuable amendment, but I can see we're not going very far with this.

The Vice-Chair: Are we ready to vote?

Mr Hodgson: On the amendment or on the clause itself?

The Vice-Chair: On the amendment, of course.

Mr Hodgson: Oh, yes, but not on the total.

The Vice-Chair: All those in favour of Mr Arnott's amendment? Opposed? The amendment is lost.

Further discussion on section 50? Mr Hodgson.

Mr Hodgson: Portable sawmills: We didn't have a lot of representation on the road when we had the public hearings, but I've had discussions with people who own portable sawmills. I understand that they're exempt up to a certain amount of material that they cut and process per year. I know it's in the act and that it's in the manuals as well, and I wondered if there's been any thinking on this. I'll just explain it for the sake of the committee members who might not be familiar.

There's a growing trend in southern Ontario to have mobile, portable sawmills. They're a great way for one person to become an entrepreneur and take a portable sawmill. They hire two or three people, and they take advantage of private woodlots and they also will process. I would imagine in the future it'll come up where they'll be bidding with other sawmills in the area for crown land timber to be taken to their mills, up to the contractor. I think this is going to be a growing trend.

I know they're exempt to a certain level. I agree that they should be exempt. There's not a lot of overhead to start them up. They're a great way for employment in rural Ontario. Has there been any thought given to franchising? What's going to happen? We've got an exemption, I believe, for so many cubic metres of wood per year produced from these portable sawmills.

Mr Wood: I understand they are licensed.

Mr Hodgson: There's an exemption, I believe, in one of the manuals to the amount of wood processed from such an operation. I don't have it on the tip of my tongue, but I remember reading it back in August. So every portable sawmill will be licensed by the MNR?

Mr Wood: They are already licensed now, if they're taking wood off crown land, I mean.

Mr Hodgson: If the wood comes off the crown land, but right now the main supply is off of private lands. In the future, you're going to see more of them become available off the crown.

Mr Wood: My information is that they are licensed now and will continue to be licensed.

The Vice-Chair: Are we ready —

Mr Hodgson: No, this is an important process. Are they licensed under this section of the act?

Mr Wood: We're looking for the section you are referring to in the act. We're going to need about five minutes.

Mr Hodgson: I'm willing to give you five minutes, to have a five-minute break here.

The Vice-Chair: Okay. This committee stands adjourned until 5:10.

The committee recessed from 1706 to 1716.

The Vice-Chair: Mr Wood, I understand you have the answer to the question that was posed.

Mr Wood: The question that was brought up was, is there an exemption? I understand that there is about 30

cords or 1,000 cubic metres that there is an exemption on.

Mr Hodgson: They are exempt from the licensing?

Mr Wood: Yes.

Mr Brown: Does that mean that with the exemption there could be a number of mobile sawmills that are exempt from the licence that could form some kind of a co-op and actually be using a significant amount of wood through avoiding the licence on each one? I think the reason for exempting them is that there is a relatively minor amount of wood, but if what you're attempting to do here, through licensing them, is to control the amount of wood used, there may be some people who are more inventive than either you or I might be in terms of their financial arrangements or their corporate arrangements that would permit them to be using more wood than you envisioned. I'm just asking.

Mr Wood: The licence or exemption is to the facility. It's not necessarily to the cutting of the wood. It's not who cuts the wood. You're talking about an exemption for 30 cords or 1,000 cubic metres for that particular facility.

Mr Brown: Then the question is, if you're just talking about the allocation of wood, controlling it, why are we licensing them, period, if the allocation of wood would do the trick? Do you follow what I'm saying? You're saying that doesn't matter in particular because we are allocating the wood, so therefore they can't avoid the process because we have control—the government, that is—of the wood supply. If you control the wood supply, then why do we need to license the sawmill? Do you follow me? Is not the wood supply the important thing to control rather than the sawmill? You just made the argument that it didn't matter because you controlled the allocation of wood.

Mr Wood: Where does the wood come from as well? That's your argument, I guess.

Mr Brown: Yes, my argument I guess comes down to the point, conceptually, if you control the allocation of wood, which the ministry does, why do we need to license anything in terms of a processing facility?

Mr Wood: The reason for licensing is to ensure some control over the wood that goes through the mill. Licensing will put some conditions on it. But the exemption that Chris had raised was that there are some small sawmill facilities that are out there in somebody's backyard for small amounts of wood, 30 cords or 1,000 cubic metres, that there is an exemption on.

You've raised another issue: Is there a possibility of a loophole for cooperatives? I guess if somebody thought hard enough, he could probably find a loophole for almost anything.

Mr Brown: And people will think hard enough, is my experience.

Mr Hodgson: That's the purpose of my bringing this up at this time under this section, and I want it to be on the record that I agree with the exemption for small operators. I believe that we have too much regulation and too much work that's going to be required by local staff, with decreasing amounts of revenue to area offices. I think the

exemption should be expanded, otherwise we are going to face, as this is a growth industry for rural Ontario—you can start it up, hire a couple of people, it's good for our local economies and it's going to grow. Eventually people are going to either form co-ops or franchises where they will be in a position not only to bid on private woodlots but also to bid on smaller crown units.

I agree that maybe we should look at the whole issue of licensing wood-processing plants. Really, what the people of Ontario want is: We own the crown land. We have so many trees. We want to make sure that if they're cut, they're cut in a sustainable manner.

What you'll have to revise, if we extend the exemption of processing facilities from being licensed, is how we collect our dues and how we account for the trees that are cut off the people of Ontario's land. Right now, I believe we keep track of the amount of wood that comes off crown land by the companies that process the wood. We scale either at the sawmiller's gate or their weighing station, and they hold back the crown's portion of the stumpage fee. I'm not sure about the area charge, but they retain an amount of money that's auditable. That's how we make sure the people of Ontario get what they're due from the wood that's cut off their land.

Now, I agree with what Mr Brown is saying, that maybe the focus should be on managing how much wood comes off an area of land, without having to rely on the company per se. Free them of this regulation on licensing, but make sure the people of Ontario are paid for the wood that's taken off their land and that it's in accordance with the management plan.

I think the ministry has run into situations like Operation Stump, close by the parliamentary assistant's jurisdiction. In the old days we used to have a scaling system where there was pretty well one scaler by the ministry in the bush for every wood-cutting operation, and that assured the people of Ontario that if you cut a tree, the people were paid their stumpage on that tree.

Then it evolved where there was really a duplication there. The company had a scaler, the people of Ontario had a scaler hired by the government, and it was a very expensive and onerous process. We evolved that to the point now where we're handing over the accounting to the company, and we can audit that trail, but in the future that might not be the way to go if the trend is to have smaller operations. You're not just going to talk about one major sawmill operation, but in fact in southern Ontario we might have numerous two- and three- and four-man portable mills.

One of the advantages that these small operators will have is they won't have the large overhead. From the people of Ontario's point of view, they won't have the resources to then properly account for the wood that came off the crown units. That's why I've made the amendment to section 66 to follow the auditing process for the scaling. It can't just be a sample or a guess or a count. We're going to have to develop a system that when we have an area of land, we're absolutely certain we're getting paid what we're supposed to be getting paid for, and you can't have it just up to the company, because these companies are going to get smaller and

there are going to be more of them.

I agree with the exemption; I just want to reiterate that. But I think maybe we should extend the exemption to more and more volumes of wood as time goes on and as we develop the scaling techniques to account for that.

Mr Wood: What you're talking about can be taken care of under the regulations. The regulations can be amended to cover that situation.

Mr Hodgson: Okay, so that is envisioned, that eventually we'll start backing out of the way it's done right today.

Mr Wood: I might just add that when you talk about putting a number of these facilities together, it's not as cost-efficient a way of operating and producing wood. There are better ways of processing large amounts of wood than to have somebody who goes out and buys a bunch of vending machines and has them set up.

Mr Hodgson: I can envision the time, though, that you will see something like a co-op. A lot of the large sawmills have gone out of business in the last 20 to 30 years and there was really no growth in that industry, like in our area of central and southern Ontario, but in the last couple of years you've seen a growth of these portable mills, and if you get somebody with a scaler's licence, they can stamp the wood. They're creating quite a bit of employment.

Basically off private woodlots is where they're getting the wood for it now. The jobbers will take it, based on price in the market, to a small portable mill and saw it up, and these aren't big operations. But in the future they might want to bid on some of the smaller crown units, and in order to do that, you could see the formation of some cooperatives or some other forms of ownership. I think that's a positive step. It'll help create an industry that employs people who, when the big mills shut down, they haven't had a job since then. I think it's a positive step. Technology has gotten to the point where they can have a sawmill on a smaller scale.

Mr Wood: You're not going to get an argument from me on that. This is enabling legislation that can adapt to a changing forest indefinitely. This is one of the reasons why we're bringing in this type of legislation to replace the old timber act. Through the regulations and the legislation, that will deal with those situations.

Mr Brown: In this section, we're talking about the licensing of facilities. Now, is the licensing of the facility directly related to crown timber, or is it all timber? What I'm really asking is, if I or you have a facility that is totally using timber from private lands, do they require the licence, being that this is the crown timber?

Mr Wood: Yes, they require a licence, but this particular legislation is dealing with the Crown Forest Sustainability Act.

Mr Brown: So although this piece of legislation relates to the crown forests, in this instance it means crown timber and private timber. What I'm trying to get at is, we've been talking about the exemption for sawmills. Does that mean—you said 30 cords was the exemption?

Mr Wood: Yes, there's an exemption for—

Mr Brown: The exemption of 30 cords, is that 30 cords of crown timber or is that 30 cords of all timber?

Mr Wood: All timber.

Mr Brown: How would the crown expect that it could keep track of that? You might be able to keep track of the 30 cords that came off the crown land, but how would you keep track of what else they cut aside from that? Given that these are relatively small operations, you can move them virtually anywhere, they can be on private land, they can do quite a bit of work, and really the crown has no way of knowing whether they cut 30 cords, 300 cords or 3,000 cords, except for the crown has some ability to know that they've cut 30 cords if it's crown timber.

1730

Mr Wood: They have to report what they're doing.

Mr Brown: So the onus is on the licensee to report.

Mr Wood: There's an exception for under 30 cords, but they have to report what is going on.

Mr Brown: Is there any mechanism—I'm just following up on Mr Hodgson's comments—to track the lumber coming to market so that you would have some idea? Although I'm a trusting soul and I trust just about everyone, I'm not sure that every sawmiller will report all of the private timber that he or she may have chosen to cut.

Mr Wood: I would like to take the approach that if you're operating a sawmill out there, you know the rules and regulations and what is expected of you, and that the people will report and say where the wood has come from and how much they've processed. I like to believe that is the case throughout all of Ontario.

Mr Brown: Is there a mechanism within the ministry that, say, occasionally audits local lumberyards, for example, in areas where there may be a fair number of sawmills, so you could tell by going into the local lumberyard that perhaps the yard bought 50 cords or so many thousand board feet from Len Wood Enterprises, sawmillers extraordinaires?

Mr Wood: We just had some press coverage on an investigation that was going on for a year and a half or two years on wood being cut and stumpage being charged and stumpage being paid. I would expect that process would continue on auditing the processing facility and where the wood is coming from.

When you have publicity out there and back dues are being collected and this and that, it would help to deter people from what you're suggesting they might be doing. I don't think they're doing that on a big scale, and people are being caught when it's happening and they're paying the back dues and they're paying fines and the whole bit.

Mr Brown: That's interesting that you raised the subject of the investigation, because I think some of us might wonder about that. There was a huge amount of both MNR time and OPP time spent checking the records and I think actually being out in the countryside watching people avoid scaling stops etc.

There is some concern that there weren't charges laid by the OPP, although from the press report it appeared

that it was more than honest mistakes. It appeared to be pretty close to allegedly fraud that we were seeing.

I think one of the things, as we go through this legislation, we should be attempting to do is to make it as self-policing as it can be and make it as difficult to avoid doing what the people of Ontario would want you to do, without causing a great deal of more enforcement expense. Because if you look at what you were talking about in the press reports on Operation Stump, I think we recovered, with penalties, about \$175,000 of \$200,000 that was due the crown, at least according to the press report. So it appeared to me the people of Ontario lost about \$25,000 in the transaction, plus paid for all the enforcement that came to that point.

I guess as we go through a new act, we should be looking for ways to avoid having to spend more money on regulation, more money on policing, more money to get less value, and so trying to eliminate as many loopholes as we can and make the act as straightforward as we can so that the people out there who are enforcing this act can do so in a way that is cost-effective.

Mr Wood: The debate started on, are there exemptions for small portable sawmills that might be out there, and this is what we're trying to address. I know you have a concern, Mr Brown, that there are no amendments we have brought forward to address that particular situation that you're talking about. We're saying it can be handled through the regulations for small operations with 30 cords or less, and if we have to amend the regulations when there is a concern out there, I think we're quite prepared to do it.

Mr Hodgson: I'd just like to bring the debate back to what Mr Wood—

The Vice-Chair: We're still on section 50.

Mr Hodgson: Section 50. The reason why we went into licensing—this is just a personal observation—is that in the old days we had a crown management unit that was given to a certain company and it employed 50 or 60 people in a small town, and if another company started up a logging operation or pulp and paper and it employed 50 or 60 or more, and yet there wasn't the wood supply for it, we were into a political mess. They would phone up the MNR and say, "We're going to have to lay off all these people." So, to avoid that problem recurring, we decided we'd license wood processing facilities to make sure that the wood processing facility matched the supply of wood.

What I'm suggesting, and that's why I think this is a positive step, is that we've opened the door a bit to changing that situation because technology has changed. I don't think we need to worry about licensing the facility any more. What we should really state is that "On the crown land we've got an operational plan in place and this is all the wood that we can take off in a sustainable fashion," and avoid this regulation and the bureaucracy required to enforce it. In Operation Stump I believe it was over two years before we got a handle on it.

What I'm suggesting is that in the transition from licensing facilities this is a good step. Start to modernize our accounting system of the scaling so that we don't

have to require the goodwill of the receiving facility. Right now, to answer Mr Brown's question, you'll have no way of determining what wood comes off private lands. On the crown units, the way we control that is that we direct it on the licence of the crown unit to a certain mill and then they hold back a reserve to pay the crown its dues. There are elaborate ways to get around it, but basically, through modern auditing, we can check that.

But in the future, what I'm saying is that these smaller mobile portable units are not going to have the wherewithal to keep that paper trail that we'll be able to go through and check. As far as limiting it to 30 cords or linear feet, you're not going to be able to account for it on the private lands because you won't have that paper trail. That's why we've envisioned the exemption, because we're talking about persons who have a woodlot and a farm and you don't want them burdened with having to hire a staff to keep track of what log they cut each week.

What we should worry about, though, is that we know how much wood is coming off that crown land and that we're getting paid our proper amount of money so that we'll have the money to reinvest into that forest as an ecosystem. All I'm saying is that this is a positive step, that one particular aspect of section 50.

1740

Mr Bisson: Just a quick question to my colleague: You're saying that we should not license mills?

Mr Hodgson: Eventually that's the way it'll go. The portable sawmills are going to be exempt if they're small right now. Really, we should be concerned about the wood supply, where it's going and that we're regenerating it at a sustainable rate, that the forest is sustainable. We've done it the other way around because in the past it was easy to do and we didn't want to run into the problem of having two major plants built without the wood supply there for the future. But in central Ontario right now—this doesn't apply to the north so much—we ran out of the wood supply, so a lot of the mills have had to close down. There were 30 or 40.

Through technology, we've been able to produce hundreds of thousands of board feet, which used to require four or five mills with 50 or 60 employees. Now one mill can do that with only maybe 20 or 30 employees. The technology has also allowed for portable sawmills to come in. An entrepreneur can start it up, run his farm part of the year, start up a small portable sawmill, employ two or three people from the community, get a scaler to come in and mark the wood and he can sell the wood either planed or rough. Another person will have a small planer set up. It's a little industry that's going to grow, but I see that as the trend as technology comes along. You're going to have smaller operations.

Therefore, the ministry's envisioned this and it's allowing for the exemption on the small ones right now. At the same time, the auditing will have to be in place when these smaller ones get in a position to bid on crown units.

The Vice-Chair: Are we ready to vote on section 50?

Mr Brown: As we address this section, I think it's

critical, because I agree with Mr Hodgson that wood supply has to be the primary concern. The old method of using mills to determine that is going to be antiquated as technology changes, as the economy changes, as the things we need to do as a society change.

I'm really having some difficulty trying to envision how this licensing serves much purpose at all, other than a way to keep track of the wood that's coming out of the crown forests. Particularly in my area for example, there's really only one major consumer of timber and that's an E.B. Eddy plant at Espanola, but a significant portion of the wood they use does come from private land. I don't know whether it's significant, but there's a lot of wood that moves from private land to E.B. Eddy. I don't know why we need to particularly license E.B. Eddy.

A question I think that's out there in the future for us to grapple with is the idea that controlling the mills is going to control anything or protect anybody or help the economy in any way or keep a community going that wasn't going before.

I was pleased that the parliamentary assistant provided me with one of the calls for proposals that was made for the recent mills as I had requested. As I went through that, I was still a little unclear. We're talking about new, large, modern manufacturing plants for oriented strand-board. I was unclear even after having read that exactly how my proposal, if I had made one, was going to be stacked up against your proposal or Mr Hodgson's. The criteria were there, but it was vague enough that I would not have a high degree of comfort that we had decided on the correct proposal.

You just didn't know, at least as you stacked it up against the criteria. I must assume the ministry made the wise choice in all those cases, but we are still back at looking at the mill rather than at the supply of wood. This is the Crown Forest Sustainability Act. What we're worried about is the wood supply more than anything, the fact that it's got to be regenerated, that there has to be a sustainable yield over time and that the forest has to reflect the ecosystem values we have today.

I'm just saying that the government's view of how this is to work may be antiquated almost before we get out of the stable.

Mr Hodgson: I realize it's getting close to the adjournment time. I'd just like to draw to the government's attention that in the next couple of weeks we're going to be trying to promote this new sustainable forests act to the world, that we're managing our forests and that wood products coming out of Ontario are being made in a sustainable fashion. This afternoon I noticed at the north wing entrance that we put in two large Christmas trees. They're using up 12- to 14-inch trees that are just used to put lights on, and then I imagine they'll be discarded. I was wondering if somebody could recommend we just plant a couple of trees out at the north wing doors for future Christmas tree lights.

Mr Bisson: I can tell you that any tree with a 12- or 14-inch butt is not going to make it into my house.

Mr Hodgson: It's outside the north wing of the

Parliament Building here today. They had to fit them for size, and so they chopped off the butts. I just thought that somebody with influence with that department of the government could mention to them in the future to maybe just plant a couple of trees. Maybe that's a way to herald the new forest sustainability act.

Mr Wood: You can always relay your message to the Speaker of the House. He's in charge of the grounds, I believe.

Mr Hodgson: I understand it's happened other years. I just haven't been here before, but I'm assuming it's happened other years.

The Vice-Chair: Are we ready to vote on section 50, where we're still at? All those in favour of section 50? Opposed? Carried.

Section 51, and I understand, Mr Arnott, you have an amendment.

Mr Arnott: Mr Chairman, how much time do we have remaining?

The Vice-Chair: Well, the House is still debating.

Mr Arnott: I move that section 51 of the bill be amended by adding the following subsection:

"Sawmill co-products

"(3) Any forest resource processing facility licence may require the utilization in whole or in part of sawmill co-products in preference to logs of sawlog size and quality."

The Vice-Chair: This is self-explanatory. Would you like to comment?

Mr Arnott: I think Mr Hodgson wants to make some comments.

Mr Hodgson: This is a concern that we heard numerous times on our public hearings. This goes to the highest and best use of a wood product. There's a market mechanism in here, and I'm not sure how that will fit in, but it does remind me of the Christmas trees being cut down and placed at the north wing doors, that maybe that's not the highest and best use for 30-foot-high trees with 12- to 14-inch butts; when all wood products coming from our forests are yielded in a sustainable fashion, if that's the highest and best use of a tree that's taken 20 or 30 years to grow. I think it would be more in line that we plant trees that could be used year after year in a sustainable manner to hang some lights on.

The sawlog, this brings into question the whole operation of chipping. We heard quite a few comments that chippers will go in and chip a 20-inch tree when its best use might be to have that sorted and work out an agreement. I imagine it happens in most cases that the companies get together, work out an agreement that they'll truck and deliver sawlogs and they'll take the chips and there's sort of an arrangement. The sawmills would like to see something put in this new act to recognize that the sawlog size, where we're producing lumber, we're adding more value to that particular piece of wood, and that other wood should be used for pulp and paper. That's what it's trying to address here.

Mr Wood: You raised the issue of the Christmas trees again. I guess we could look into it, but they probably

come from a private commercial operation out there, some commercial operation that's running a Christmas tree farm, as we see truckloads of them travelling around the province. These probably came from there as well.

Mr Hodgson: I'm pleased to hear the government's supporting local industries.

1750

Mr Wood: I'd just like to add that the government doesn't feel that this amendment is acceptable. I know the issue that was raised throughout northwestern Ontario, but we heard both sides of the argument as to what is the best end use or what is the best dollar you can get for your finished product, whether it be in paper or whether it be in lumber, depending on the fluctuation of prices all over the place. So we've heard the whole argument. For that reason, we're not going to accept the amendment that is brought forward.

Mr Hodgson: I would just like to thank the parliamentary assistant for clarifying that those Christmas trees probably came off private commercial growers. My point is that that's not the highest and best use for a tree of that quality when we're promoting sustainable forestry practices. I think it would be more in line to plant trees out there.

Mr Brown: I'll just add, Mr Hodgson, obviously, though, the person who sold the trees thought it was the highest and best use of that tree.

Interjection.

Mr Brown: We digress. As I look at this amendment, I think we all agree that the best use of the logs should be, first, to the sawmill and, second, to the pulp industry, and that's what you're attempting to do. I'm not so sure this section really is the place to do it; none the less, it is an interesting amendment that we should consider.

But to agree with Mr Wood, as I usually do, I would suggest that we have some problem with the wording; "sawlog size," for example. We have heard that people use trees down to three inches for sawlogs. I might look at a three-inch tree and suggest to you that that's maybe not what I would think is a sawlog, but obviously the economics of a particular operation would say it is a sawlog.

We have some difficulty in the differentiation is all I'm suggesting to Mr Hodgson, and we also have and have heard that there are some difficulties in the field. There may be in a given stand of trees very few that actually are sawlogs, and just because there are three or four on a hundred hectares of land, it becomes commercially impossible to direct those four to the sawmill and the rest to the pulp mill.

We've heard a lot of discussion and yet we haven't seemed to end up with a definition that directs "sawlog" in a way that will work in the real world. While we have a lot of sympathy, we're having some difficulty understanding exactly how this would work.

The Vice-Chair: Are we ready to vote? All those in favour of Mr Arnott's amendment? Opposed? The amendment is lost.

Further debate to section 51? Seeing none, shall section 51 carry? Carried.

Section 52: Mr Brown, you have an amendment.

Mr Brown: I move that section 52 of the bill be amended by striking out the portion before clause (a) and substituting the following:

"Compliance with management plan or work schedule

"(1) If forest operations conducted in a crown forest are contrary to a forest resource management plan or an annual work schedule approved by the minister, the minister may by order,"

The Vice-Chair: Comments?

Mr Brown: There will be in a second, Mr Chair, if you'd give me a moment. It's another one of those ones where I'm not sure why I'm doing it. I think this is another one that explains itself.

The Vice-Chair: Any debate on this self-explanatory amendment?

Mr Hodgson: Just one second. I'd like to have time to read the change.

Mr Bisson: Can we vote now and talk after? I'd suggest, Mr Chair, that we can vote now and they can read—

The Vice-Chair: Mr Hodgson, have you had an opportunity to look at it?

Mr Hodgson: Mr Bisson's comment says that we should vote now. I'm surprised they didn't put this in the omnibus Bill 175.

The Vice-Chair: My question is, have you had time to look at it?

Mr Bisson: My comment was that we should vote now and—

The Vice-Chair: Mr Bisson, you don't have the floor.

Mr Hodgson: It's Mr Brown's amendment and I believe he wants to speak to it.

Mr Brown: The significant change here is that what we are doing is defining it more carefully, because we have the words in the original clause that say "or are likely to cause loss or damage that impairs or is likely to impair..."

The difficulty we have with that is the definition of "loss or damage." We have been unsuccessful over the course of these hearings and clause-by-clause examination in defining the words "loss or damage." By the very nature of what a forest operation does, virtually anyone could argue that the loss of a tree is a loss of a tree. There is loss and there is damage by the very nature of what you are doing. What we're doing, what we think would be much clearer, is to speak to following the management plan that's laid out and the annual work schedule rather than to talk about the vagaries of what a loss or damage might be.

If the parliamentary assistant can give us some comfort regarding the words "loss or damage," I would be happy, but it seems to us that what you want is that there's a forest resource management plan put in place and an annual work schedule, and if an operator is to deviate from those, then of course the implication is that you stop operations, you change them, whatever.

It seems to us that this is a far clearer way to approach

the problem so that there's some understanding by the operator in the forest about what he or she must do in their operations. You're defining it as loss or damage, but there's no definition of loss or damage in the bill. Maybe you could give us some examples of how you could follow a forest management plan and at the same time have a loss or damage as long as you are following the plan and following the work schedule.

Mr Wood: What we're talking about here is the sustainability of the forest, and the plan is that you don't allow harvesting techniques or operations out there such that you're not going to be able to renew the forest. It's happened when they've gone from horses to Caterpillar tractors, to big, wide tractors, to cutting in different seasons when they're harvesting. There are so many different ways that you can damage the forest that it's very difficult to renew it.

Mr Brown: So what you're telling me, though, is that it is possible to follow the forest operations plan and to follow the annual work schedule, both of which have been approved by the Minister of Natural Resources, and cause loss or damage?

Mr Wood: There's a forestry compliance manual that is being adopted jointly by the industry out there that covers the area of loss or damage. That answers your question, I believe.

Mr Brown: But we were told last week that there would be no compliance manual.

Mr Wood: Well, referred to as a handbook.

Mr Brown: Oh. So in the handbook, then, we are going to define "loss or damage."

We're talking about an intrusive operation in a forest.

Cutting trees, by nature, causes damage and loss. That's what it does. So to define what could stop an operation from working under damage or loss, I don't know how you do it. I think you'd do it by saying, "You haven't followed the plan and you haven't followed the work schedule; therefore, you must stop your operation," etc. But damage or loss? I mean, my goodness, what is that?

Mr Wood: We're looking at the sustainability of the forests out there. As you harvest an acre of trees, you want to make sure that there can be an acre regenerated and growing again. If you're doing damage or things where you cannot continue the sustainability of that forest, we're saying we don't want it to happen.

Mr Brown: What I'm asking is, is it possible to follow the forest management plan and the work schedule—in other words, do everything you said you would do—and still cause damage or loss? Is it possible to do that? Is it conceivable you could do that? I agree with all the sustainability; that's what this whole thing is about. What I'm telling you is, we are wondering what "damage or loss" is, because obviously there is damage or loss to the forest just by operating in the forest.

But if you've done what you've said you would do in the work schedule, if you've done it in accordance with the management plan, you have met all the criteria, as an operator, that you should have met, and yet you're going to be stopped for some vague definition of damage or loss, which could be anything—

The Vice-Chair: Gentlemen, we will have to continue this discussion next week. This committee stands adjourned until 10 o'clock next Thursday.

The committee adjourned at 1803.

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Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South/-Sud ND) for Mr Wessinger and Mr Morrow

Carr, Gary (Oakville South/-Sud PC) for Mr David Johnson

Miclash, Frank (Kenora L) for Mr Sorbara

Wood, Len (Cochrane North/-Nord ND) for Mr Mammoliti

Also taking part / Autres participants et participantes:

Hodgson, Chris (Victoria-Haliburton PC)

Wood, Len, parliamentary assistant to Minister of Natural Resources

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Filion, Sibylle, legislative counsel

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Official Report of Debates (Hansard)

Thursday 24 November 1994

Journal des débats (Hansard)

Jeudi 24 novembre 1994

Standing committee on general government

Crown Forest Sustainability Act, 1994

Comité permanent des affaires gouvernementales

Loi de 1994 sur la durabilité
des forêts de la Couronne

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

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GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Thursday 24 November 1994

Jeudi 24 novembre 1994

The committee met at 1042 in room 151.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Vice-Chair (Mr Hans Daigeler): Okay, gentlemen and ladies, we'll continue the clause-by-clause consideration of Bill 171. When we last met, Thursday last week, we were discussing section 52, to which Mr Brown had an amendment. I think you were in full flight, Mr Brown, as you debated your amendment. I don't know whether you wish to continue this at this time.

Mr Michael A. Brown (Algoma-Manitoulin): Just to refresh the committee's memory perhaps, so that we can continue this discussion, our amendment to this section comes from a concern with this section as printed, that it uses words that we find problematic, and that I think most people should find problematic, in that it refers to "loss or damage" in the original section. Many people have great difficulty understanding what "loss or damage" might mean in a forest operation. In a forest operation, by definition, you're cutting trees. Most people would consider that a loss or a damage.

The wording that is presented to us doesn't define "loss or damage." There is no definition of "loss or damage" in this bill anywhere that we can find, and we are concerned that the term is so vague that it will cause great grief out there in the real world as people move through the forest trying to understand what it is they aren't supposed to cause loss or damage to.

Our amendment, we hope, clarifies that. It says, "If the forest operations conducted in a crown forest are contrary to a forest resource management plan or an annual work schedule approved by the minister, the minister may by order...." What that does is clarify that if you are operating in accordance with the plan, if you are doing it in accordance with the work schedule, you are not causing loss or damage.

I will ask the government and the parliamentary assistant to perhaps provide us with an explanation of why or how someone could conceivably cause loss or damage. If they are working under a forest resource management plan or an annual work schedule and complying with the terms and conditions of both of those, how could there be loss or damage, and if there couldn't

be, why is our amendment not superior to the government legislation?

Mr Len Wood (Cochrane North): Just briefly, what we're talking about is a sustainable forestry act. If there are situations that develop that are considered where the forest cannot be replanted and if they threaten the forest sustainability, this is the section where it's dealt with. The wording that we've presented we feel better addresses it than the wording that has been presented by the Liberal caucus.

Mr Brown: I reask the question because I think it's important: If you are working under a forest resource management plan and you're complying with that plan and you are working according to the annual work schedule, how could there conceivably be loss or damage? If you just say "loss or damage," the idea that a forest resource management plan means anything or the idea that the annual work schedule means anything is just thrown totally out the window.

Mr Wood: If you look at the section, it says "that impairs or is likely to impair the sustainability of the crown forest or that is contrary to a forest management plan or a work schedule approved by the minister, the minister may by order...." So what we're talking about is ways and means of being able to make sure that the forest is on a sustainability basis, and this is the wording we feel should be there to make sure that happens.

Mr Brown: I don't understand what "loss or damage" can mean in the forest context. What do you mean? What could be a loss or damage in the forest if you are following the plan and the work schedule?

Mr Wood: In the past, companies have used specific pieces of equipment out in the forest following the plan that was laid out and yet the equipment they were using, because of the season they were using it in, was the wrong type of equipment for that particular season. We've had situations where that particular land would not be done on as far as what we consider forest sustainability is concerned. Those situations have happened in the past and we want to make sure that if we do run into those situations, they can be dealt with. This is the section that would be used to deal with those situations.

Mr Brown: Would you not spell out, "You cannot use that kind of equipment in that particular place during that particular season"? What are we damaging? I mean, that's the real question. You can't be, I presume, damaging the tree because you're cutting the tree. That's what the plan calls for. So what is it that you are damaging or what are you losing?

Mr Wood: You're losing the site that can be regenerated in years to come; you're losing that particular area. Sure, you're harvesting the trees, but if you're not doing them on a sustainable basis so that you can have another crop off that particular area in a reasonable period of time, you're not practising good sustainability of the forests.

Mr Brown: So what you're saying is that in instances it is quite conceivable for an operator to meet the requirements of the forest resource management plan and that it's quite conceivable that the operator follows to the letter the annual work schedule but that the operator would then still be liable for causing a problem, as yet undefined, in the forest.

I'm wondering, if the ministry takes someone to court and I go to court and I say that I followed the forest resource management plan to the letter and this is how I did it, I followed the work schedule and this is how I did it, and you're claiming I damaged something, what is it that I damaged?

Mr Wood: You have sections (a), (b) and (c), which spell out in a little bit more detail as to whether you even can "direct that the forest operations stop; establish limits or require other changes in the forest operations; amend the forest management plan or work schedule" if you see that there's a situation that is not being done on a sustainable basis, where we are going to have the sustainability of the forests.

1050

Mr Brown: What obligation is there on the part of MNR to deal with an amendment to a forest resource management plan or the annual work schedule because of some conditions that may be found? People didn't foresee that there would be this particular problem, but an operator arrives, he's cutting the trees, he's taking them off to the mill or wherever, and he discovers, for example, a hawk's nest or something that he should stay away from that no one would have had any idea was there before. So he calls the ministry and he says, "What do I do?" What obligations is there on the part of the ministry to come out and say to that operator, "This is what you do, this is how you do it and in a timely fashion"?

The problem here is that the wording is so vague, we don't know what the loss might be, we don't know what the damage might be. We do understand that there may be instances where there needs to be an amendment to the annual work schedule. The problem is that if you've got millions of dollars of equipment and a lot of people out there who value their jobs, who need to bring the paycheque home, how quickly will the minister respond and say: "Yes, you will"—in your words—"create a damage or loss if you continue here," or: "It's okay. Just continue on. It isn't a problem. There isn't a damage or loss"? Because having to wait costs operators, and particularly workers, millions of dollars in that situation, or conceivably could.

Mr Wood: There are situations that are probably not going to be covered by the plan that, when the operation starts, we're going to have to deal with to make sure that they don't impair the sustainability of the forests, and

these are the situations we want to be able to deal with. It's very similar to starting to rebuild or remodel a 200-year-old house and not knowing what you're going to run into until you start tearing things apart and putting them back together.

There might be situations that are out there that are not covered in the plan because nobody was aware of them and that the situations developed. The intent is that the forest operations would stop and find a way of amending things, making sure that the operations can start up again but that they can be done on a sustainability basis.

Mr Brown: You continue to use the word "sustainability," and the problem all the way along has been the fact that we can't define sustainability. What we need here is some certainty around the words "damage or loss." Otherwise you conceivably, in this legislation, could stop virtually every forest operation in the province of Ontario, because people don't know how they might impact the environment and how they might impact a sustainable yield, which is different, on that particular area of land.

Our problem is almost solely in definition. We don't argue with the fact that you shouldn't cause damage or loss; we just want to know what it is and how, if it's perceived that there could be a damage or loss, the ministry might deal with it. If I'm an operator working in good conscience and I come to the ministry—because, frankly, I know of cases where the ministry response has been a week or two weeks. They didn't have personnel. It wasn't the personnel's fault that they didn't come out, but they literally have stopped operations in the forest just because there wasn't somebody to come out and say, "This is what you should do." It was resolved, they did come to an agreement on what should be done once the ministry appeared, but you're costing Ontario workers thousands of dollars in wages when you just stop and have to wait a week or two for the ministry to come out and have a look when the operator says, "Will I cause some kind of problem here?"

I'm sure you're aware of some situations where that has happened in your area too, Mr Wood.

Mr Wood: I'm not aware of any situation since 1990, but I know there was—

Mr Brown: I can tell you about some this summer some time if we want to have a chat.

The Vice-Chair: We don't want to have chats right now.

Mr Wood: It's not the intention to hinder the industry or stop the industry from being able to do what it's out there doing, but there could be unforeseen situations and incidents arise where it would be in the best interests of the taxpayers and everybody in the province that the situation was stopped until you could address the area in question and have amendments from the work plan that would make sure that we do not impair the sustainability of the forests.

Mr Brown: So the government then believes that the term "damage or loss" will hold up in a court of law? It is your belief that you could successfully prosecute on the basis of "damage or loss" if an operator has complied

with the annual work schedule and has complied with the management plan? On what basis would the court make that decision? That's the problem. If I'm an operator out there who wants to do the right thing, I have to know what the right thing is.

Mr Wood: I hope you're not expecting me to put on my lawyer's hat or my lawyer's shoes, because I'm not educated in the field of a lawyer, whether it's going to be won in court or whether it's going to be lost in court. That's a position that I wouldn't want to speak on, but the advice and information that we have in drafting the legislation is that what has been written here is fair.

Mr Brown: In the definitions section, are you prepared to define "damage" and are you prepared to define the word "loss"?

Mr Wood: We've worked around what we consider the sustainability of the forests. As for the other questions, no, we're not prepared to do that.

Mr Brown: I suspect you're prepared to have a court decide that at some future date. Is that your position, that you are prepared to let a court decide?

Mr Wood: What we're saying is that "loss or damage" is limited to the sustainability of the forests. We're saying that we do not want to impair the sustainability of the forests out there.

Mr Brown: Well—

The Vice-Chair: Mr Hodgson actually also has a question. I'm not sure whether we're making much progress on this amendment. Mr Hodgson.

1100

Mr Chris Hodgson (Victoria-Haliburton): Does this not go back to what we were discussing a couple of days ago about a guideline or a handbook that's going to be incorporated into the manuals on practices of forestry? I agree with Mr Brown, unless you have some kind of guideline for operators—my understanding was that we were told either at the last committee day or the day before that there's going to be an operator's guidebook included in the manuals which would spell out a lot of these things—define what damages are when you come to a creek; if you're operating within your management plan, how you're to conduct that operation. It was my understanding that this would be defined. If that's not going to be defined in the manuals with the force of law, then I agree with Mr Brown. How do you know what you're supposed to be doing out there and are you just supposed to keep your mouth shut and not question the ministry officials?

There's sort of a chilling effect of government if you leave it this vague without some definition either in the manuals through an operator handbook or, as Mr Brown's requesting, right here in this section to define it. My fear is that what's happening—it's not just because of delays if you run across a problem, but if you do report it, you don't know what the results are going to be. The incentive is not to report anything and just be quiet and be good and carry on business as you normally would and hope they don't come out and see you. I don't think that's the environment we want to foster with a sustainable forestry act.

Mr Wood: In your opening comments, you're talking about a booklet and the manuals. Sustainability is determined by the manuals and the handbook. The handbook will be developed to provide consistency and application on this particular section. I might point out as well that the industry and other groups are working to develop the booklet that you referred to in your opening comments. It's being developed together, whether it be the sawmill industry, the pulp and paper industry or other groups out there developing that book, and they're actually the experts out in the field and they will be determining what should be in there as far as sustainability being met.

Mr Hodgson: You understand the problem we're getting at here, that there's no clear definition and if you have it—Mr Brown's amendment speaks to this, "If the forest operations conducted in a crown forest are contrary to a forest resource management plan or the annual work schedule approved by the minister." Maybe you want to add something more to that, but at least that gives a good guideline.

The Vice-Chair: Did you want to comment, Mr Wood?

Mr Wood: No.

The Vice-Chair: Any further discussion on this amendment?

Mr Brown: I think Mr Hodgson has made the point. If, in the scenario that I put forward a moment or two ago—you speak to a hawk nesting in a tree and you discover it, much to your surprise, as you're in the midst of the operation. You then have a choice: "Do I call the ministry and ask them what I should do or do I just do it? Do I just continue and cut down the trees the nest is in, don't call anybody? If I do, and I cut down those trees and I do those things, nobody is ever going to know." There is no evidence left on the ground that you have destroyed that wildlife habitat. That's gone off to the mill. If it is not clear and if an operator will find out two weeks—if he does call, find out that in two weeks somebody's going to come out and say what I can do—

Mr Hodgson: Or maybe charge him.

Mr Brown: —and you have to wait for two weeks, the incentive to deal with this in a reasonable sort of fashion and do the right thing is all gone. I'm going to have to lay off every worker that's here. I'm going to have to leave my expensive machinery sitting there because I don't know (a) if it really is a loss or a damage, and (b) how long it's going to take for the ministry to make up their mind whether it is a loss or a damage, and therefore I'm at risk of laying off a lot of people, causing a lot of grief in the economics of my little town I might be nearby, just because you don't define what it is and won't commit to a quick and speedy resolution of anything that I might report.

Don't you see the problem? The problem is there has to be certainty.

Mr Wood: I like to be able to take the position different from what you have, Mr Brown, that we have a lot of good corporate citizens out there who are taking their sustainability of the forests in a responsible and sincere manner, and they want to make sure that what is

out there is on a sustainability forever. There might be people out there who are going to say, "Well, to heck with it, I don't care what happens." I would like to take the position that they're operating on crown land. They have a responsibility for their children, their grandchildren and are responsible corporate citizens, and they're going to want to make sure that there are forests out there on a sustainable basis. They will report it and will hopefully expect to get a resolution to the concern as quickly as possible so they can get back to harvesting.

Mr Brown: I think one of the members just made the point. We don't need laws if that's the way this is to work. We could just have the title of the bill and we could forget about it, because all people are good and wise and wonderful. I'm not sure that's really the case, Mr Wood.

Mr Wood: The large majority as far as I'm concerned.

Mr Brown: I agree. We wouldn't need a bill if we were dealing with the large majority. The large majority will always do the right thing. We're looking at the operators. I can tell you, if you make a law that is punitive for doing the right thing, you're going to cause even some of those people in the majority situation to scratch their heads and wonder if they should do the right thing. You shouldn't be penalized for doing the right thing. That means you have to define what the right practices are, which means you have to do it in the plan, which means you have to do it in the work schedule.

You have to define how that's going to be done and I'm sure all the good operators will do that and all the good operators will follow that, but people will be very concerned that even if they meet all the qualifications, somebody from MNR can come down, tap them on the shoulder and say, "Well, you damaged a blueberry patch over there that you weren't supposed to." Now, no one would want to damage the blueberry patch, but it could happen. They would want to know what, exactly, loss or damage means: "Do I face prosecution? What is it that I can't do or I should do on the positive side?"

As I talk to people in the environmental community, as I talk to people in industry, their biggest problem with this legislation is the absolute permissiveness, the absolute vagueness of this legislation. It appears as though a minister can decide on these definitions at any time. People don't know whether they're complying. All we're asking through our amendment is that we put certainty in it, and if it needs more certainty, then obviously there'll have to be more work put into the plan and obviously there'll have to be more work put into the work schedule in order to get some certainty.

1110

But to leave words like "loss or damage" when you're talking about harvesting is absolutely so broad as to cause huge problems to both the environment and the economy. We just can't understand why you won't define those two words and then we could be happy, and if you're not prepared to define them, take them out. What our amendment essentially does is take those two offending words out, because you have not offered a definition for those words.

Mr Wood: These are covered in the manuals and they're covered in the handbook that is going to be out there. "Loss or damage" is limited to that we do not impair the sustainability of the forest.

Mr Brown: That will make everybody feel better.

Mr Wood: And sustainability is determined by the manuals.

Mr Brown: Could you point out to us, then, what sections in the manual specifically spell this out?

Mr Wood: As I said earlier, the industry and all of the stakeholders out there are developing the handbook to cover the situation.

Mr Brown: And the government seriously believes at this point that the legislators in this province should approve wording like this because, some time in the future, we're going to come to a resolution of this problem? You think we are exercising our role on behalf of the people of Ontario to adopt something which conceivably could cause great harm to both the environment and the economy on the basis that some time in the future, in the manual, we will come to a consensus about what these words might mean? Frankly, it's unbelievable.

Mr Wood: I guess we could go on for a long period of time, but this is a section under Remedies and Enforcement which is written to cover some unforeseen situations that are out there, and the feeling is that it must be there so that we can continue to have sustainability of the crown forests there, because there are unforeseen situations that might come up. Hopefully they're all covered by the working booklet that is there, but if there are some situations, the minister wants to be able to direct forest operations to stop for a short period of time and address the situation that was unforeseen when the plan was drawn up and maybe not covered in the booklet.

Mr Brown: On the crown land units, it's quite conceivable—as a matter of fact, I think it's government policy—that in areas where you haven't formed your famous co-ops or come to some other arrangement about licensing that we may have 20 different companies operating on the same crown unit, all under some sort of licence. In that case, the ministry will have done, according to you, a forest resource management plan, and according to you will have actually put the annual work schedule in place. So you've got an operator who is operating under the ministry's own plan, the ministry's own work schedule. In my experience with the ministry, given the huge cutbacks we've seen to the forestry area, you're not going to have people who are going to be able to run out there and have a look every time somebody questions something.

You're going to find that operators are put in an absolutely impossible situation, just absolutely untenable. They follow the ministry's orders, they do exactly what the ministry wants them to do—the ministry's even drawn up the plan—and then the ministry comes along and charges you. That's the situation we're in if you leave those words in this clause. That's why we're arguing so strongly to have those words either defined clearly or removed. The idea that it can be done in manuals is just not on, in my view. You can't even tell

me what sections of the manual would define them or do define them.

Mr Wood: Just a couple of brief comments. What we're attempting to do is—we have the Crown Forest Sustainability Act. We're talking about the sustainability of a forest and we're talking about having plans and legislation in place that is going to mean the survival of the industry in some cases, survival of some communities, survival of the jobs that go along with the industry that are around the communities and also being able to create new jobs. The legislation that we have here is going to do that.

We've seen examples of announcements that have been made out there, but for it to continue to have the growth and the jobs and single-industry towns being protected, we have to have wording that the sustainability of the forest is going to continue to take place for hundreds and hundreds of years to come.

Mr Brown: You continue to use the word "sustainability." You sat through the hearings as well as many of the members who are sitting in this committee room might now. You heard this act described by some environmental groups as a "fraud." You heard some of them say this was an exercise in political salesmanship or political packaging, that the only thing sustainable about this act is the title.

I'm in favour of motherhood and I think every member here is and therefore we're all in favour of sustainability. I can define "motherhood"; I can't define "sustainability." Your act does not do it in the purpose clause. You continue to say that's why we need it, because we need it sustainable, but yet you're unwilling to define it. I think the people of Ontario would like to know what "damage or loss" means in terms of sustainability. Just tell us; don't tell us that it's sustainable. Tell us how damage and loss are defined if you're sustainable.

Mr Wood: We have some sections in the act that require the manuals—I believe amendments to 66 will require manuals to have more details related to the indicators of sustainability. It's not being avoided, nobody's running away from it. It is there. The industry knows what it means, what is expected of them and I believe most people that we're dealing with are well aware of what the sustainability of the industry, the communities, the jobs, mean. If something is going to happen out there in the forest that is going to put this at risk and the ministry didn't have the right to be able to say, "Let's stop that operation for a little while so we can work around that situation," I think we'd all not be doing our jobs.

1120

Mr Brown: No one argues that the—

The Vice-Chair: Mr Brown, if I could be helpful a little bit at this point, frankly, I get the impression that we're spinning our wheels. We're getting the same question and the same answer. Obviously, we're not making much progress, and I think probably at this point we should very soon move to the vote on this section, unless we have some new answers or some new questions.

Mr Brown: Well, I am all in favour of moving this on as expeditiously as possible, Mr Chair. You know that, that I've worked diligently to make sure this bill is examined carefully and that we not move on and that we aren't redundant. However, the parliamentary assistant has just described some amendments to section 66 that we made some weeks ago, with all-party agreement, very quickly, because they did help in defining the planning process; they did help, at least in the plan, in defining sustainability somewhat.

That's what's troublesome here, that in section 66 we make at least some modest improvement in the definition of sustainability according to the planning process—not to the result, but to the planning process—and now you're saying, "Well, we know what sustainability is in 66, but after having gone through that process, we want the right to arbitrarily stop an operation at a minister's whim." That's what it sounds tremendously like to us: The minister wakes up on the wrong side of the bed and says, "You're going to stop."

There's no penalty at all attached to the minister making the wrong decision, and that's our problem. I don't want to run this out or talk for much longer on this point, and I think the Chair is correct, the answers and the questions all seem reasonably redundant, but we are trying to get the government to acknowledge there's a problem with this clause.

The Vice-Chair: I just want to be clear, Mr Brown. I'm not commenting on the quality of either the question or the answer; I'm simply saying both continue to be the same, and I don't think it's particularly helpful to ask the same question and get the same answer for much longer.

Mr Brown: But you see, the opposition is hoping to get a more reasonable answer, Mr Chair.

The Vice-Chair: I know, but I think you've certainly valiantly tried for 45 minutes. Mr Wood, did you want to give a different answer?

Mr Wood: Well, the only thing I would say is that the last two days we had looked for unanimous permission to move to section 66, which the amendment would have addressed, and I think it would have probably cut short some of the debate that has happened here. I know we have agreed that, yes, it will be opened up for the amendment, but only when we get to that particular section, and maybe it's something that we should look at. It would probably cut down on some of the discussion if we could get unanimous agreement to move to that section and deal with that amendment after we've dealt with this particular one, the Liberal motion.

Mr Brown: I'm hearing something different. We of course have copies of the amendment to section 66 and have studied it carefully. We believe it is a novel approach to doing a bill. Reasonably, I think most people would tend to believe you would deal with section 66 some time after section 65 and some time before section 67.

Mr Wood: The only thing I would say on that is that we dealt with section 66 as a group, with unanimous consent, out of order, and all we were looking at was moving—

Mr Brown: The answers are different now, Mr Chair.

Mr Hodgson: Mr Chair, you've got different answers, but what are we talking about?

The Vice-Chair: Frankly, I didn't detect much difference. Are we ready to vote? Perhaps we can continue some of these questions at the next section.

Mr Brown: Mr Chair, just to be helpful, the clerk has just handed us some new amendments to section 66 and some new amendments to section 67 and some new amendments to section 72. I would guess that this makes the case even stronger for waiting to deal with section 66 after section 65. I think before we vote on this important section, which I believe is one of the critical sections in the bill, we would have to ask for 20 minutes.

The Vice-Chair: You're asking for a 20-minute recess?

Mr Brown: If there's going to be a vote.

The Vice-Chair: At this point, we're still in the debate.

Mr Brown: I think the government needs some time to consider voting in favour of a well-thought-out and well-placed amendment.

The Vice-Chair: Are we ready to vote?

Mr Brown: In 20 minutes.

The Vice-Chair: Okay. I'll call again, are we ready to vote?

Interjection: Yes, we are.

Mr Brown: Twenty minutes, Mr Chair.

The Vice-Chair: Mr Brown is asking for a 20-minute recess. This committee stands adjourned until 11:45. We'll see you at 11:45, those who are here.

The committee recessed from 1126 to 1148.

The Acting Chair (Mr Bernard Grandmaitre): We will now reconvene. You have before you an amendment to section 52, which was introduced by Mr Brown, and I'm told that we'll have a vote immediately.

All in favour of the amendment? Against? Defeated.

The next item is a government motion, an amendment to subsection 52(2).

Mr Wood: I move that section 52 of the bill be amended by adding the following subsection:

"Application of subsection 8(2)

"(2) Subsection 8(2) applies with necessary modifications to the amendment of a forest management plan or work schedule under clause (1)(c)."

The Acting Chair: Comments?

Mr Brown: What does that mean?

Mr Wood: Just briefly, this section provides authority for stop-work orders to prevent loss or damage. Clause 52(1)(c) provides authority to make changes to plans to prevent future loss or damage. It's a clarification of the original intent to address some of the questions that have been raised since the bill had first reading.

Mr Brown: That is not very clear. Do you want to try that one again? I'm reading subsection 8(2):

"The minister shall not approve a forest management plan unless the minister is satisfied that the plan provides

for the sustainability of the crown forest, having regard to the plant life, animal life, water, soil, air and social and economic values, including recreational values and heritage values, of the crown forest."

This says:

"Subsection 8(2) applies with necessary modifications to the amendment of a forest management plan or work schedule under clause (1)(c)."

Clerk of the Committee (Mr Franco Carrozza): That's section 52.

Mr Brown: So am I to understand, then, that the conditions in subsection 8(2) then apply to clause 52(1)(c)? Is that what we're saying here?

Mr Wood: Basically what we're saying, to simplify it as much as possible, is that the minister won't make an amendment unless it's sustainable.

Mr Brown: That good old word "sustainable" again. I think that's what it means. We will be supportive of this amendment. However, the parliamentary assistant is going to help me a little bit with the process, I hope. That means that if there needs to be an amendment to a plan or to a work schedule, then you must comply with subsection 8(2). I understand that. Is there a requirement for that amendment to go through the public consultation process?

Mr Wood: Yes.

Mr Brown: Where do we see that?

Mr Wood: It's covered in the forest planning manual.

Mr Brown: Section what?

Mr Wood: It's covered under the forest planning manual, in the manuals.

Mr Brown: It's covered in the manual but not in the legislation?

Mr Wood: The manuals are part of the legislation.

Mr Brown: But a manual can be changed by order in council at any time. Is that not correct? The manuals receive their authority from the regulations, which receive their authority from this act. The regulations can be passed by cabinet, provided they're consistent with this act. Therefore, the manuals can be changed by cabinet as long as the act permits that. Is that not correct?

Mr Wood: I think the answers will be clearer as we get to subsection 66(2), government motion number 2, the one that we've been looking for unanimous approval to move to.

Mr Brown: I'm afraid that's not right. We received subsection 66(2) 20 minutes ago. You were hoping for unanimous consent to subsection 66(2) last week, which was a different amendment than this one, I take it, or we would be using the same one. But let's not argue about subsection 66(2) right now; we'll have an opportunity to do that later. My problem here is that if it does not require in the legislation that this go through the process and there is a public consultation, then I think we have some EBR issues.

Mr Wood: In the section that I'm looking at here, the original amendment that was brought forward, part of it is including public involvement in the decision-making

processes. So this is covered under subsection 66(2), if you look at clause (a), if we can get to the amendment.

Mr Brown: Well, I'm just looking at it. If you want to talk about that right now, we can.

Mr Randy R. Hope (Chatham-Kent): If he's reading it, it will allow a rational conversation to occur. I mean, if I look at this amendment that's being brought forward, dealing with subsection 8(2) of the bill, subsection 8(2) talks about the criteria for approval. When you're talking about section 52, section 52 is dealing with damage by forestry operations, and clause 52(1)(c) talks about an amendment to the forest management plan or work schedule.

When you're amending the forest management plan or work schedule, this additional amendment that's being placed says you must comply with subsection 8(2), which says:

"The minister shall not approve a forest management plan unless the minister is satisfied that the plan provides for the sustainability of the crown forest, having regard to the plant life, animal life, water, soil, air and social and economic values, including recreational values and heritage values, of the crown forest."

So all that's doing is reinforcing that if damage by forest operations occurs and there needs to be an amendment to the management plan or work schedule under clause 52(1)(c), this amendment just tells you to go back to subsection 8(2) and make sure you comply with subsection 8(2) of the act. That's all it's doing.

I'm reading this amendment to clear up everything. So that way, if I'm reading it and I'm saying, "Okay, I've got to amend my forest management plan. What criteria do I follow?" I've got to go back to subsection 8(2), because the amendment tells me to go back to subsection 8(2), the new amendment we're placing, and subsection 8(2) tells me I've got to take these things into consideration when I'm amending my plan. It's very simple. I don't know what the questions are about the amendment.

Mr Brown: I'd indicated that we were supportive of this amendment, but my question was—

Mr Hope: But you said "but."

Mr Brown: My question, if you'll recall, was, is this subject to the public consultation process? The parliamentary assistant says that 20 minutes ago I got a proposed amendment to subsection 66(2) that says that it is subject to a public consultation.

Therefore, if we go back and look at the scenario that I am an operator in the forest and I have received a stop-work order because, although I'm working under the present management plan and I'm working according to the work schedule—so I'm doing everything I'm supposed to—but something out there that the minister, in his or her wisdom, has decided is a problem, it could cause damage or loss, whatever that means, that means I can't proceed until I have an amendment to the plan. That means I can't proceed then until there's a public consultation about the amendment to the plan. That means I can probably pack up and go home for the next couple of years. Is that what it means?

My experience is that public consultations take some

time. My experience is that this would preclude the minister from addressing the specific concern, the hawk in the tree over there, until the amendment is made, and that before that amendment is made I have to go through a public consultation process. Is that what this means?

The Acting Chair: Parliamentary assistant?

Mr Wood: I'm ready to vote.

The Acting Chair: I heard a question. Have you got an answer?

Mr Wood: Well, we've gone through that in the last section we were dealing with. I'm ready to vote.

Mr Brown: I'm afraid we haven't gone through that in the last section. If there's a stop-work order placed on an operation and the stop-work order, because of the annual work schedule and because of the forest management plan that has been approved, needs to be amended before I can go any further, can the minister say to me as an operator, "You can go ahead if you just stay away from that by 400 metres, just move off to the south," or whatever? Can I go ahead or is that then contravening the management plan because I had never intended to do that, and therefore now I need an amendment that has to go through the public consultation process? I'll just issue my layoff slips right now and we'll all go home and collect UI or whatever.

1200

That's a legitimate question. People out there need flexibility. They need to know so they can continue to work in the forest, and there's another perfect disincentive to inform the ministry we've got any kind of a problem out there at all.

Mr Wood: If we're to maintain the sustainability of the forests, I'm sure that if there's one area that is in question, it is going to be damaged and, as you said, there's a stop-work order out there, I would expect that in the forestry industry there would be another area that they would be working on, because they wouldn't be limited to that specific area. They would be going to another area while this situation is being dealt with as speedily as possible, involving the public in the decision-making process. So what the end result should be so that we can make sure the forests out there are managed in a sustainability fashion—

Mr Hope: I suggest that it now being 12 of the clock, we can recess.

The Acting Chair: Did you say a recess?

Mr Hope: Recess until this afternoon.

Mr Wood: We want to go for another 10 minutes if possible.

The Acting Chair: I thought there was an understanding that we would go beyond 12 o'clock, shortly after 12, possibly 10 minutes.

Mr Hope: I didn't hear that understanding, but if you're saying we're going beyond 12, fine.

Mr Wood: Thank you.

The Acting Chair: Another 10 minutes.

Mr Brown: The parliamentary assistant in his response is suggesting that the annual work schedules will have a high degree of flexibility in them in terms of

how an operator may be harvesting the forest. Given that high degree of flexibility, which I'm not sure should be there or even is there, again we come back to, what's "damage or loss"? If I have a stop-work order at one place, how am I certain about what I could do in the other, given that the situation may be somewhat similar?

The Acting Chair: Is there a comment, Mr Parliamentary Assistant?

Mr Wood: I think we've tried to explain what section 52 means. The amendment that is brought forward is brought forward as a result of consultation with a large number of people out there and is something that we feel everybody can live with and is going to help in the sustainability of the forests for years and years and years to come, as I said before, talking about single-industry towns, jobs, creation of new jobs and protecting the communities.

Mr Hodgson: Progressive legislation.

Mr Wood: Yes.

Mr Brown: We're missing a few buzzwords, but keep going.

The Acting Chair: Not conservative, but progressive.

Mr Brown: I think the parliamentary assistant doesn't understand the ramifications of what he's suggesting here. Is there any kind of public consultation process around the minister's stop-work order? Because that in essence is also an amendment. You are complying with the forest management plan for your area. You are complying with the work schedule. The minister comes in and says, "Stop." You're doing everything according to the plan. You're doing everything according to the work schedule. You must stop. To my mind, you've just amended the plan by asking the operator to stop, because he's complying with the plan, he's complying with the work schedule, and you say, "Stop." Is there anybody in one of our committees who says: "Minister, there isn't a problem here. Why are you requiring these people to stop?" Because it is an amendment.

Mr Wood: The minister would be making the order to prevent further damage to the forests and to prevent further damage from being done. It would be very similar to me arguing with a policeman going down the road and saying, "You must stop here." I'm arguing that, "I've driven on that road for 20 years. Why should I stop even though the bridge has been washed out at the other end?" All these things can be the unforeseen happening out there in the forests, and we've got to be prepared to be able to deal with them so that the forests are maintained on a sustainable basis. There are a lot of unpredictable or unforeseen situations that can come up.

Mr Brown: Agreed.

Mr Wood: And this section deals with that, Mr Brown.

Mr Brown: But if there is no public consultation over what "damage or loss" is, which there apparently isn't—the minister's deciding that—that's fine, I guess. I understand there's a need to stop someone from doing something that is not in the interests of the forest. The minister, though, has absolute discretion in deciding what that is, and to get going again, you have to go through a

process of amending the plan, which means you must have public consultation.

Is there any guarantee that the ministry is willing to give to the operator a time limit, that the minister must respond within 14 working days or 15 working days or one week? Is there any requirement? Because over and over again in my constituency, one of the problems that appears at my constituency door is not, "The government is making inappropriate decisions." It's "Government isn't making any decision, and I can't wait that extra 60 days," or 30 days. "We want you to say, yes, no, this is what we can do."

The effect on the economy of having regulation without some timely response from the government agency that's regulating is often catastrophic on the very communities that Mr Wood is talking about keeping economically viable. No one is talking about doing environmentally harmful things here. We're just asking you to define them, and once you have defined them, make your decision in a time frame that's acceptable. You say, "Well, we will do our best." We want to know what your best is.

Mr Wood: If I could just make a comment or a brief question to Mr Brown, what we're saying is that if there is damage out there and it was unpredictable or unforeseen, the minister should have the right to stop that and not necessarily allow the damage to continue on while we're consulting the public and looking at it. We're saying that if there is damage that's being done that the forest can't be sustained, that work order should be there to stop immediately, and then rectify the situation as quickly as possible and get people back.

The timber EA provides for three different categories of amendments and it spells out the level and length of public consultation that's been set out by the EA board, so all of this is in line with what has been happening.

Mr Brown: We're in favour. Let's vote.

The Acting Chair: We will call for a vote immediately. All in favour? Carried.

Should section 52, as amended, carry? Comments?

Mr Brown: Well, other than to say, on section 52, as amended, for the reasons I've stated, we could not support this particular section.

The Acting Chair: So the vote has been taken. The vote is on the section, as amended: All those in favour? Against? Carried.

We will recess until 3 o'clock or right after routine proceedings. Thank you.

The committee recessed from 1211 to 1548.

The Vice-Chair: We will continue the clause-by-clause consideration of Bill 171. I understand that this morning we went as far as section 53. Is there any debate?

Mr Wood: Before we move into 53, I was wondering if we had unanimous consent to move to section 66.

The Vice-Chair: Is there unanimous consent to move to section 66?

Mr Brown: No.

The Vice-Chair: No. I'm sorry there isn't.

Debate on section 53? If there's no debate on section 53—

Mr Brown: I have some questions. This will be brief, hopefully. It relates to whether this section applies to a section of the crown lands that are not under a forest management agreement or are not actively being forested. Is this restricted to crown units or to forest management areas, or does this apply to any crown land defined somehow as a forest?

Mr Wood: The title of the act is the Crown Forest Sustainability Act.

Mr Brown: We have sections in here that relate to private land; we have other sections that relate to matters that are not involved in crown management units. So my question is just, does this apply in a broader sense to all lands that would be crown lands, that would have trees on them and therefore would, I presume, be called forests? Does it apply? Because I think it should. I'm not arguing it shouldn't; I just want a quick answer.

The Vice-Chair: Mr Wood, do you want to comment?

Mr Wood: What we're concerned with here is the crown land; the other one, what you're concerned about, could be covered under the Public Lands Act.

Mr Brown: But I don't read it to say that. How do we know that the Public Lands Act applies in other areas? Or do both apply?

Mr Wood: The area we're talking about here, we're referring to—

Mr Brown: I think we've got an answer; I think that both apply.

Mr Wood: Section 23, licensing.

Mr Brown: No, but it doesn't say here that it has to be subject to licensing. The only area of crown forests that I can see are excluded from this act would be the provincial parks, where apparently the government doesn't believe a crown forest exists, which I find rather odd but we've had that debate. So any other place that there's crown land and it could support a forest ecosystem would be subject to these provisions. Is that not so?

Mr Wood: Just bear with me for a second. If not a crown unit under a section 23 licence, then we'd be dealing under the Public Lands Act, from what I understand.

Mr Brown: Help me again. Why wouldn't this apply to other lands?

The Vice-Chair: Mr Wood, do you want to repeat the explanation?

Mr Brown: The only crown forests I understand this act not to apply to are crown forests that are in provincial parks.

Mr Wood: Your question is basically saying, is there an overlap of that? It's possible that the Public Lands Act could apply instead of the management units, where there were no stop-order operations.

The Vice-Chair: More questions on section 53?

Mr Brown: No. Of course, we're trying to move through this as expeditiously as possible, but I don't

really think that was much of an answer. But we won't object.

The Vice-Chair: We're going to vote on section 53. All those in favour of section 53? Opposed? Carried.

Section 54: Any amendments? Any debate?

Mr Brown: Just a moment.

The Vice-Chair: Mr Brown would like a moment to read it.

Mr Brown: Just one question: What happens in this case of compliance if it is not the licence holder that is in contravention? Is the licence holder required to take action? Obviously it would be an illegal act; someone would be doing it without the consent of the person who has tenure. But is the licence holder then liable for some illegal act by a third party, as they apparently are in the case of theft of the timber from the lands?

Mr Wood: Well, the main purpose of this particular section is to ensure that licensees carry out renewal work or measures to protect the forests and the environment which are required by the licence. We're really talking about compliance with the forest resource licence. Now, you're saying as to who the individual was—I mean, whoever's doing it has to be in compliance with the forest resource licence, and then it also refers to costs involved in making sure the conditions of the licence are followed.

Mr Brown: But the crown in other sections contemplates the possibility that there will be unauthorized use of crown lands. I'm looking for the section, but it doesn't really matter. What we're talking about is a section where a third party, without the permission of the person who has tenure, has the licence, causes damage, as you define damage, to the area. Is he, the licensee, then responsible for some action by someone else?

Mr Wood: Here we're talking about a person who fails to comply with the terms and conditions of the licence. What you're probably talking about is some other section being dealt with. But in this particular section, this is what we're dealing with.

Mr Brown: Well, I realize that, but we understand that in the forest today there are times, at least the act takes account of times, when lumber or timber may be harvested without the permission of the licensee. What I'm asking you is, is the licensee responsible for those acts under this section? What I'm really saying to you is, is it the responsibility of the licensee to make sure everything that happens on that unit is his responsibility, whether or not permission was granted or whatever?

Mr Wood: Well, the person who is the agent of the licensee—is this what you're talking about?

Mr Brown: No. I'm talking about Mike Brown going on to Len Wood's unit and harvesting some trees that you had not permitted me to take and making a mess of the environment in the process. Then are you responsible for the mess that I've created? Because you're responsible for paying the crown dues for the wood that I've taken.

Mr Wood: What you're talking about is how you deal with that through the courts, through theft or whatever. That's what you're talking about.

Mr Brown: But you, as the licensee, still pay the stumpage fee on the wood that I've stolen.

Mr Wood: This particular section deals with the licensee and the terms and conditions of the licence, section 54 that's in front of us.

Mr Brown: But the licensee is responsible for what happens on the land that he has licences on. That's the argument you made when you discussed the stumpage fees having to be paid whether the licensee took the wood or whether the licensee gave any permission to take the wood. The licensee has to pay for the timber, and if he can find the person who stole it, then he can recover that through civil action in the courts. But what I'm asking in this section is, if that happens, and presumably the act contemplates these things happening, will the licensee be responsible for the damage that is done also? He's responsible for the stumpage fees. Is he responsible for the damage done?

Mr Wood: In this particular section, I'll repeat again, we're talking about compliance with the forest resource licence. What you're talking about is another situation that I'm sure must be handled under another section.

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Mr Brown: I'm not so sure. As a matter of fact, I'm positive I'm not. This is a real possibility. If the crown believes it's a real possibility that someone can come in and take what shouldn't be taken off a crown unit without the permission of the licensee, then in that very act you're likely to cause damage. You're probably not going to be in compliance with any annual work schedule. You're not going to be in compliance with any kind of forest management plan. You're not going to be in compliance with any of that. Are you responsible for that, even though you're responsible for the stumpage? We say quite clearly you're responsible for the stumpage. Are you also responsible for the damage?

Mr Gilles Bisson (Cochrane South): Just to see if I follow where you're going, wouldn't it be the same, I would ask the parliamentary assistant on that point. The way it deals with it now is that if I pay the crown dues on an FMA unit and somebody steals my wood and somebody makes damage to the forest, we have a provision now that deals with that under the current timber management act. Wouldn't the same principles apply under the new act? I ask the question.

Mr Wood: It would be very similar to if somebody steals my car and I still owe \$10,000 to the bank. I'm responsible for making the payments on it and finding a way of getting the damage fixed if there is damage done to the vehicle. There are some things that—

Mr Brown: So then if you use that analogy, you are responsible for the damage.

Mr Wood: The section that we're talking about here is compliance with the forest resource licence, and we like to think that 99% of the people out there using crown land and crown forests for creating jobs are good corporate citizens and are not going to be involved in the activity that you're talking about.

Mr George Mammoliti (Yorkview): On a point of order, Mr Chair: Wouldn't the courts decide that?

The Vice-Chair: I'm sorry, Mr Mammoliti. That clearly is not a point of order—

Mr Mammoliti: Wouldn't the precedent be set by the courts?

The Vice-Chair: —but you're right.

Mr Mammoliti: I know I'm right.

The Vice-Chair: Any further debate on this section?

Mr Brown: Did we get an answer? Is it yes, they are responsible—that was the last answer I think I heard—or are they not? It's a simple yes or no.

Mr Wood: In this section, as I said about four times already, we're talking about compliance with a forest resource licence and the cost of making sure that, after harvest, that's on a sustainable basis. We're talking about compliance with the resource area. We can get into all kinds of other situations where there's theft involved and accuse people of theft or whatever, but that particular section doesn't really cover that area. I've got no further debate on that.

Mr Brown: Let's just pin this down then. If there is an instance where another operator, without permission and unknown to the person who has the licence, goes in, harvests an area that is beyond what the annual work schedule contemplates, is not consistent with the forest management plan, there is damage done, who pays for the damage that is done?

Mr Wood: You go back to section 53 of the act and that talks about repairs, the one that we just voted on.

Mr Bernard Grandmaître (Ottawa East): Okay. What is that action? Describe that action. "Take such action as the minister considers necessary." What would be that action? This is what Mr Brown is trying to get at. How would you deal with such a situation?

Mr Wood: You attempt to have the area put into a condition where the damage will not interfere with the sustainability of the forests. I guess we could talk about all kinds of different situations—

Mr Grandmaître: And who pays for it?

Mr Wood: And who pays for it?

Mr Grandmaître: Yes.

Mr Wood: The responsibility for harvesting and tree planting, the onus is being put on—

Mr Grandmaître: The licence holder?

Mr Wood: The licence holder and the companies.

Mr Grandmaître: And not really the culprit, if it's done by a third party, if this damage is done by a third party.

Mr Wood: Well, I think I would be looking for the person who did the damage.

Mr Grandmaître: Phone the OPP.

Mr Wood: You've answered your own question.

Mr Brown: But in the instance that you don't know who it is, which is quite conceivable, who has done the damage, who pays? Is the crown responsible? Is the licensee responsible? Who's responsible?

Mr Mammoliti: Mr Chairman, how long are you going to let this go on?

Mr Grandmaître: George, you've only been here 15 minutes.

The Vice-Chair: Mr Hodgson I think is next and then Mr Bisson.

Mr Mammoliti: Mr Chairman, on a point of order.

The Vice-Chair: It better be a point of order.

Interjection: What do you mean it better be a point of order?

The Vice-Chair: It better be a better one than the earlier one.

Mr Mammoliti: Mr Chairman, hear me out. Here we've been at length on something that I think would be the responsibility of the courts or of the police department. Mr Brown is asking for an opinion from the parliamentary assistant on something that obviously he doesn't have jurisdiction over.

The Vice-Chair: Your point of order is?

Mr Mammoliti: The point of order is, let's get on with it. Let's deal with it.

The Vice-Chair: That is a point of order. However, as I indicated repeatedly during this clause-by-clause consideration, it is the custom of the committee to give a reasonable amount of time to any member who wants to ask questions, and then we will move on. As I indicated earlier this morning, if there's too much repetition in terms of the question and answer, I do think we should move on. But frankly it is very flexible. Mr Hodgson is next.

Mr Hodgson: As the record will note, I've been very expeditious and lean in my comments here at today's proceedings, but I kept noticing that some members are delaying this unnecessarily on points of order. I would like to point out that I haven't spoken on this because I've been in agreement with Mr Brown, but now I'm confused. I do have one quick question to the parliamentary assistant. That's on third-party licensing.

I thought the reason why we were allowing third-party licensing and having sort of the—if there is a problem, there's a dispute mechanism now where they have the recourse to go before the minister. On damages, it was my understanding that third-party licensing was brought in to make it so they would be responsible.

Mr Bisson: But this is a different issue. He's saying—

The Vice-Chair: Mr Hodgson has the floor.

Mr Hodgson: Thank you, Mr Chair.

Mr Wood: We're having a dispute settlement mechanism for people who were traditionally holding third-party agreements, but in damage being done, as I said to Mr Brown earlier, in section 53, all the way through there you're talking about a person who causes damage in every particular area.

Mr Hodgson: They're going to be a licence holder, a third-party licence holder, so they would be accountable for the damage is the way I understood it, because you're taking away some rights from the first licence holder, and the compensation to the first licence holder is now that the third licensee would be accountable for that damage is the way I understood it. I'd just like to know if that's

true, because technically they're a licence holder now.

Mr Wood: To me, it's quite clear that section 53 deals with the damages and section 54 means compliance with the licence holder.

Mr Hodgson: That's the way I read it and I just wanted to make sure I was clear on that. If you want to consult with your legal staff for two seconds, it wouldn't bother me, but that's up to the Chair's leniency. I know we're in a rush here.

The Vice-Chair: I'm glad you recognize that.

Mr Wood: Time is of importance.

Mr Bisson: Just for clarification, and maybe the parliamentary assistant could answer me, presently under the timber management act, if you're the FMA holder and I go and steal your timber, you would end up paying the crown dues, question number one, under the current timber management act, and would not the same apply under the new act? And on the question of damage, my understanding now is that in the timber management act, if I do damage to your FMA holding, the crown would then come after me, not you, and would the same be true for the new sustainability act?

Mr Wood: Section 53 is referring to the person who does the damages, yes. The person who does the damage is the person that you would go after.

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Mr Brown: And if you don't know?

Mr Wood: Mr Brown is saying, well, if you don't know who is doing the damage. There are not that many people out there who are going to move around heavy equipment that is going to do that much damage and nobody is going to be aware of it. You talk about harvesters out there now that are close to \$1 million, between \$700,000 and \$1 million, and all the heavy equipment. I'm sure that a lot of people are going to know what activity is taking place out there.

The Vice-Chair: Okay?

The Vice-Chair: Mr Hope.

Mr Hope: I was going to raise a point of order, Mr Chair, but I thought I'd do it this way. The question Mr Brown keeps asking is, who's going to pay? Mr Wood has clearly indicated in subsection 53(3), it clearly indicates the court shall direct on who's to repair the damages or prevent further damages. It's very clear in subsection 53(3) of the act. I'm having a hard time, and I pose this to you as the Chair of the committee, in the direction of the line of questioning. Asking who pays has been already dealt with in section 53. When his questioning brought forward to question—

Mr Brown: No.

Mr Hope: Don't shake your head no. It is. It's written right there in black and white. The other one, in section 54, deals with compliance with the forest resource licence. The questioning that is being posed by Mr Brown is dealing with a different section than what exactly we're talking to. I was going to raise this on a point, but I thought I'd go through the direction of the Chair, being a little bit more cooperative.

Mr Hodgson: He's stalling.

Mr Hope: No. I mean, I don't mind the questioning that's being raised, but if we're talking about who pays for damages caused, or stealing or doing whatever, it is clearly identified in subsection 53(3) of this legislation. It's written there: "...action as the court directs to repair the damage or prevent further damage" is clearly indicated in that section. When he's talking about the licence and who's got to pay, that was dealt with before.

I'm just asking through you, Mr Chair, the questioning that is being asked about who pays. The other questions that are being asked are okay, but now about who's paying is left in the court's hands, if they can find the person, or whatever needs to be inquired in an investigation, in theft or whatever, is dealt with in the previous section. I don't mind the conversation. I know opposition have a role and responsibility in the committees, but to ask pertinent questions of the sections versus questions that are relevant to a previous section that's already been voted on.

Mr Mammoliti: Yes. Stop rambling on.

The Vice-Chair: In terms of asking a question of the Chair in this regard, clearly there are divergent opinions, and therefore certainly the question that Mr Brown had asked is quite legitimate. You may feel different about the answer having been given, but clearly Mr Brown felt that the answer that had been given was not satisfactory to him and he was looking for further information. Again, I think we can only move ahead. If the questions and the answers become too repetitive, never mind the content of it as far as the Chairman is concerned—we haven't quite reached the stage of that yet, but we will be reaching it very soon. Mr Brown.

Mr Mammoliti: How soon? Another five minutes?

Mr Brown: I bring members' attention to section 37, which we have passed. It very clearly states in that section that crown charges in respect of forest resources have to be paid for, whether or not the licensee harvested the resource or whether or not the person had permission to harvest the resource. It doesn't matter. It doesn't matter at all. And the reason, if I can recall the conversation on that section—the government insisted upon that—is that because they can't be out in the forest all the time, they can't be watching everything that happens, they don't want Mike Brown, as the operator, to say: "Oh, well, I didn't do that. Somebody came in and did that, took that timber away, and I don't have to pay the crown dues on that because somebody else must have taken that. It couldn't have been me." What the section says is, "Well, you've got to pay for it anyway, Mr Brown, and if you can find the person who actually took it, then you can try to recover that through some kind of civil action." That was your argument there.

I'm suggesting that if the licensee, using those arguments, is not responsible for damages, then the crown may be in a position where they're running around in circles, because the licensee may say: "I'm not responsible for those damages. I didn't do it. Someone else did." Some mysterious third party actually did the cutting there or did whatever damage.

I think one of the problems we're having with this act is that we're not talking about timber only. At least that's

what the parliamentary assistant speaks to. There are a lot of other activities that may be going on in that forest and probably are going on in the forest that go on despite timbering, having nothing to do with timbering: for example, hunting; for example, hiking. It could be that some well-meaning but uninformed person perhaps builds a bridge over a stream so that they can—

Mr Hope: On a point of order, Mr Chair: Mr Brown made reference to section 37. There was an amendment also put forward—I noticed he was reading the bill—which clearly indicates the rights of actions in that piece too.

The Vice-Chair: Mr Hope, your point of order is?

Mr Hope: I was just bringing to your attention that section 37 has been amended and it does clearly indicate what Mr Brown is bringing forward, ie, he's only read part of the act in this book; he's not read the full amendment.

The Vice-Chair: Mr Hope, if you wish to participate in the debate, you are of course welcome to do so, but you will have to do that under the regular fashion and not under a point of order. Do you want to be on the speaking order?

Mr Hope: Yes.

Mr Brown: Mr Chair, I didn't read the whole section, but I clearly indicated what the amendment was, and the amendment was they could pursue the crown charges. That's what the amendment says.

Mr Hope: The holder of the forest resource licence, who shall pay—

Mr Brown: Exactly.

Mr Hope: Read it first before you comment on it.

Mr Brown: I think Mr Hope has the reading problem.

I come back to the point that there are other people in the forest—

The Vice-Chair: Just a second. Let's just establish some sort of order again in the speaking. Mr Hope, have you finished your intervention?

Mr Brown: That was a point of order.

The Vice-Chair: No. You had finished your—

Mr Brown: No, I hadn't. You accepted a point of order from Mr Hope, which I didn't hear.

The Vice-Chair: Actually, I thought you were finished with your comments and I gave the floor to Mr Hope, but in any case, Mr Brown is back.

Mr Mammoliti: You haven't heard his point of order yet.

The Vice-Chair: No, I already ruled that this was not a point of order and that if he wished to be on the speaking order, he was welcome to do so.

Mr Hope: And now you're back to Mr Brown.

The Vice-Chair: Right, and I thought I was coming back to you, because I thought Mr Brown was finished. Anyway, Mr Brown.

Mr Brown: We look at this act too narrowly if we believe it is only about timber management. If it is only about timber management, then we should have said so. If there are third parties in the forest who cut down some

trees, not for the purpose of harvesting the trees but for the purpose of building a bridge over a stream, for access to a camp or for access to hunting and fishing, for whatever, are they responsible under this act to pay the damages? Yes or no?

Mr Wood: In section 53, you're talking about the person who does the damages, and it refers to that all the way through in section 53. Even in section 54, the one that we're dealing with now, you're talking about compliance with a forest resource licence. Your comment about trees not being the only thing out there in the forest is quite true. All through the act we're talking about the sustainability of the crown forests and we're talking about "damage to water, soil, plant life or habitat for animal life in a crown forest." All these areas are being covered.

The Vice-Chair: Okay, Mr Hope.

Mr Hope: Mr Brown brought up section 37. The rationale for the amendment that was brought forward, which Mr Brown did not read, is that the forest industry had expressed concern that if they were to be responsible for the crown charges on the area of their licence, even if somebody acted without their permission, they should have some rights of actions against the wrongdoers. We provided that in this legislation under section 37, which is amended, which you haven't read, and then you said—

Mr Brown: Mr Hope, that's what I said.

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The Vice-Chair: I'm sorry, Mr Brown, but Mr Hope has the floor.

Mr Brown: You'd better check the Hansard.

Mr Hope: I listened very carefully. I sat here and listened to your conversation, and you make reference to who pays. The payment was already made, but who will get redress is already taken care of in the section before that under section 53(3), which says the court determines if it's the wrongdoers. You're raising a concern about who pays and about the actions of the individuals who have already paid the fees. That has been provided in section 37. So to answer your question of the industry's concerns, the industry's concerns have been addressed with an amended 37 which has been brought forward. I suggest that you read it. The explanation is there of why that amendment was put forward.

That's all I can say. We could run around the corner of who's going to pay what and hypothetical views, but as far as the industry is concerned, the industry's concerns about wrongdoers were taken care of in a previous section called 37, which was passed, which you probably voted against but we've passed. We made sure it was brought in for the protection of those people you currently are raising concerns about who pays.

The Vice-Chair: I think perhaps we're getting close to being ready to vote on this.

Mr Brown: I was just going to suggest that I don't disagree with Mr Hope's reading of section 37. All I'm asking is, is that consistent with section 54? I don't think there's any difference of opinion between what happened in section 37 and what I articulated. All I'm asking is, does that apply to this section? Is the thinking to be consistent?

The Vice-Chair: I think the question has been asked and the answer has been given several times, so perhaps we are ready to vote on section 54.

All those in favour of section 54? Opposed? Carried.

Section 55: Mr Wood, you have an amendment.

Mr Wood: Yes. I move that section 55 of the bill be amended by adding the following subsection:

"Forestry futures trust

"(8) If the forestry futures trust is established or continued under section 48, penalties imposed under this section shall be paid to the forestry futures trust."

The intention of this amendment as brought forward is to ensure that the administrative penalties are used to improve the forest conditions out there rather than going into a general treasury. The reason we brought forward the amendment is, as I said, direct administrative penalties go back into the forestry through the futures trust as a mechanism to support sustainability of the forests.

Mr Hodgson: This is a question to the parliamentary assistant. During the public hearings, as you are aware, and when we travelled across northern Ontario and again back in Toronto, on this section there was a concern that we're not taking into account sort of the scale of operation under this. If you have a large licence area and you commit one or two infractions, the fines will escalate up, whereas if you had a small area and you commit half as many, you might actually be violating it to a greater degree per scale. A lot of the large licence holders might have 10,000 or more hectares, or hundreds of thousands of hectares. They might have maybe 20 offences. Well, they would face the maximum, what, per hectare? They might be actually complying better than somebody with a smaller licence holding. Has that been addressed?

Mr Wood: On this particular section I'm going to get some assistance. If there are a number of questions that we have on that, I'm going to ask Stuart to come forward.

Mr Hodgson: Okay, because that was a concern that came up numerous times and I just wondered if it's been addressed.

Mr Wood: I don't know if you have any other questions. Maybe he can address them at the same time.

Mr Stuart Davidson: My name is Stuart Davidson. I'm legal counsel with the Ministry of Natural Resources. In terms of that particular concern, what the ministry is doing is that we're developing a compliance policy or guidelines in consultation with the industry. We're just sort of at the beginning of that process. Your particular concern may be addressed within that compliance framework. I don't think it would be possible to address it within the legislation itself.

Mr Hodgson: Okay. That's all I asked.

Mr Brown: I would just say that we believe this amendment is a good amendment, that it's useful to have those penalties put into the forestry futures trust and that's appropriate use of the penalty money. One brief question—it's not really legal in nature, I don't think: The penalty is just a penalty here; the government would have deducted any costs that may be associated before

the money went to the futures trust, or am I wrong in saying that it's just the penalty? Often clauses invoke also for cost. The cost part doesn't go to the futures trust, I take it.

Mr Wood: Once again I prefer to refer this to our legal person, Stuart Davidson.

Mr Davidson: I'm a little confused by what you mean by the word "cost." Do you mean the costs of imposing the penalty itself?

Mr Brown: Say there are court costs involved, administration costs.

Mr Davidson: No. The entire penalty would go into the trust fund itself.

The Vice-Chair: Are we ready to vote on this amendment? All those in favour of Mr Wood's amendment? Opposed? Carried unanimously.

Shall section 55, as amended, carry? Carried.

Section 56: Mr Wood, you have an amendment.

Mr Wood: I move that subsection 56(2) of the bill be struck out and the following substituted:

"Approval of LG in C

"(2) The minister shall not, without the approval of the Lieutenant Governor in Council, cancel or suspend a licence granted under section 23."

The industry has expressed concern that the minister had too much discretion in being able to suspend a licence, and what we've done is address those concerns. The motion provides that the approval of the Lieutenant Governor in Council be required to suspend or cancel licences under section 23.

Mr Grandmaître: Who gives the power to—

The Vice-Chair: I'm sorry. Mr Hodgson is next.

Mr Hodgson: Could you explain to the committee and to the people who might be reading Hansard what the change is here in practical terms?

The Vice-Chair: Did you want to ask Mr Davidson?

Mr Wood: Yes.

Mr Davidson: Your question was, what's the significance of this?

Mr Hodgson: Yes, what's the difference? Practically, how will it change the nature of the act, just for the Hansard?

Mr Davidson: The difference is, this means that before the minister can cancel or suspend a sustainable forest licence, a section 23 licence, he has to get the approval of the Lieutenant Governor in Council, which is appropriate because the licence was granted with the approval of the Lieutenant Governor in Council. So in a way, this could be seen as a limit on the minister's discretion.

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Mr Hodgson: In practical terms, how does that work?

Mr Davidson: How it would work is, the minister would give notice to the licensee that he intended to suspend or cancel the licence. The licensee would have an opportunity to make representations to the minister, which he would consider, and then he would make a recommendation to the Lieutenant Governor in Council

for the cancellation or suspension of the licence. That recommendation would also include a synopsis, if not the actual representation itself, of the licensee and then the Lieutenant Governor in Council would consider whether or not the licence could be suspended or cancelled.

Mr Hodgson: Could I have a follow-up question, Mr Chair? Is this amendment designed to make the bill consistent with who granted the licence or is it designed to put a check on the minister's power?

Mr Grandmaître: Or put a check on the Lieutenant Governor.

Mr Hodgson: Or put a check on the Lieutenant Governor? You've suggested it's to put a limit to the minister's power, but surely it also just makes the bill consistent with who's granting the licence in the first place.

Mr Wood: There was a concern out there and a request that we do put some language in there that would water down the authority the minister had. The industry out there has expressed the concern that the minister had too much discretion about being able to suspend a licence for up to six months, and this is the language that has been adopted and brought forward to us.

Mr Hodgson: I'm aware of that, Mr Wood. A large segment of the people who came before us on the public hearings talked about the minister having too much discretionary power. This amendment might be necessary as an amendment, but I don't think it does much to really address those concerns. This isn't really a check. What they were asking for was that before the minister could revoke somebody's licence, it be like an agreement, where both sides had to go before maybe a court or have a citizens' panel. The recommendations varied all over the map on how they wanted to limit the minister's power. This, practically, doesn't limit the minister's power very much, but it might be a necessary amendment for consistency within the act. That's all I wanted to get at.

Mr Brown: Just so I can be clear, it seems to me the only difference between this and the bill as originally drafted is that it takes away the minister's discretion to act without the authority of the Lieutenant Governor in Council for suspensions of less than six months. This takes away the minister's discretion to say, "You've been a bad boy and we're going to take your licence away for six months," without the Lieutenant Governor in Council agreeing.

Mr Wood: This is the explanation I gave at the beginning, yes.

Mr Brown: That's just really what we're doing.

Mr Wood: Yes.

Mr Hope: If everybody's in agreement now, I think the important part is the removal of the more than six months. It's too definite a time, which could have major economic impacts to a community. That is a very important step. I mean, somebody may have done wrong, but to have an automatic six months, that's just like closing a major industry down.

Interjections.

Mr Hope: It's in there.

The Vice-Chair: Are we ready to vote on the amendment?

Mr Wood: Let's vote.

The Vice-Chair: Generally, there seems to be agreement.

All those in favour of Mr Wood's amendment? Opposed? Carried, again unanimously. We're making good progress.

Further comments, questions, amendments to section 56?

Mr Brown: Just so that we all understand this, is it the ability to suspend or cancel licences now—all the sections in subsection (1) are now subject to an order by the Lieutenant Governor in Council, which should give at least some degree of comfort to operators that were concerned that the minister could act unilaterally and arbitrarily. Now at least the minister must take his case before cabinet, which is effectively what the Lieutenant Governor in Council is, before he can impose any suspension or cancellation. Is that right?

Mr Wood: That's right.

Mr Brown: In the past, under the Crown Timber Act, how many suspensions or cancellations have there been? Historically, these are rather radical remedies to situations. Does anybody, historically, know? Or were suspensions permitted under the Crown Timber Act?

Mr Wood: I understand that the minister had the authority to shut down an operation, but no ministers were ever willing to stick out their necks to that point of shutting down an operation that could basically shut down a complete town. This legislation is different in the sense that it's got different ways of dealing with that aspect—

Mr Brown: But did the Crown Timber Act provide for suspensions? It did. And were suspensions, historically, ever sought or granted? Mr Wood makes a good point that it is a very radical enforcement tool to suspend or cancel a licence. There are livelihoods of a huge number of people at stake.

Mr Wood: I don't have any examples, Mr Brown.

The Vice-Chair: Okay. Are we ready to vote then on section 56, as amended? Shall section 56, as amended, carry? Carried.

Section 57: Any comments, questions, amendments?

Mr Brown: It's a long section. Maybe you would like to give us a moment to read all of this.

The Vice-Chair: A moment, yes.

Mr Wood: There are no amendments to that section.

The Vice-Chair: Are we ready to vote, then, on section 57? All those in favour of section 57? Opposed? Carried.

Section 58: Mr Wood, you have an amendment.

Mr Wood: I move that subsection 58(1) of the bill be amended by adding at the end "if forest resources are, or are reasonably believed to be, stored or processed on the private land."

Mr Wood: Yes. Just briefly, this section deals with the entry on to private land. The motion limits the right

of the entry on to private land for inspections carried out for the purposes in the act. It restricts the right to those private lands where forest resources are, or are reasonably believed to be, stored or processed. The motion is proposed to provide more clarity to the intent of this subsection by restricting the right of entry to those lands where forest resources are stored or processed, or reasonably believed to be stored or processed.

It was felt by some that the section provided too much latitude to enter on to private land, despite the qualifying nature of subsection 58(2), which sets out when a search warrant is required.

Mr Brown: I favour the amendment in that it does somewhat restrict the actions, on private land, of the crown. But as the opposition I believe should do, we always are very concerned about giving crown agents or crown employees entrance on to private land under virtually any circumstances without any check or balance. I would wonder why the government would not be seeking to make this subsection 58(1) subject to the same constraint as subsection (2), where you at least have to approach a court and convince it of the reasonableness of your case before you trespass on to private property. This still permits an agent of the ministry to move on to private lands without any authority. His only restriction is that he "reasonably believes," which I guess he or she determines, that there might be some timber stored there.

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We have to take very seriously the protection of private lands, and I'm just wondering why we would not subject these to the same requirements that we do in (2).

Mr Wood: We just don't believe it's appropriate that you should have to get a warrant for every inspection. You should be able to do an inspection without necessarily getting a warrant for everyone.

Mr Brown: Why? It's one of the proud traditions of any British common-law country, the sanctity of private lands. Any entrance by an official of the crown for any purpose is always looked at as suspect under our system. We're wondering why that person would not have at least the assurance that you would have to present your case to a justice of the peace to have a search warrant granted. It's a serious issue. We're not talking about inspections or routine inspections. In order to do this, you have to have reason to believe there's a problem.

Mr Wood: I'm trying to help clarify this a little bit further. In subsection 58(1) you're dealing with going on to private land for inspecting for the purpose of this act, and in subsection (2) you're talking about going into private buildings where it says—this is under the section—that a search warrant should be issued. So both those areas are covered: It could be private land and also under private buildings.

Mr Brown: I understand that. I'm just wondering why there's a differentiation between dwelling and land. Does this mean, if I'm an inspector or some official or agent of the crown, that I can go into a private office, it not being a dwelling, and I would have the authority to do that without any authority in terms of the search warrant?

Mr Wood: I think, Mr Chair, if I could, I would look to our legal person, Stuart, for a legal opinion on what Mr Brown has asked for here.

Mr Davidson: Mr Brown, when we were drafting this section, we were cognizant of the concern that you've expressed. We began consultations, constitution-wide, with the Attorney General's office and we began looking at the case law. Essentially, what we have is a balancing between the right to privacy, which is associated with a dwelling place, which is why a warrant is required in that instance, and the practicality of going to court to obtain a warrant for all inspections, most of which are contemplated under this act to be routine inspections.

We then consulted with the Attorney General's office. It has a list of inspection powers. We then selected an appropriate one—appropriate, we felt, for these circumstances—and placed it in the act as originally drafted. As Mr Wood, the parliamentary assistant, has mentioned, in response to the public hearings we felt that we could further narrow our inspection power. If you were to compare this inspection power with similar inspection powers in other pieces of legislation, I think it's narrower and we're more finely attuned to the balance of the two concerns that we have to deal with.

The Vice-Chair: Does that respond?

Mr Brown: I accept that. If you could just clarify, does this mean that there would be opportunities to search an office, for example? The inspection just wouldn't be looking at the wood and saying, "Gee, that was scaled wrong," or, "You didn't pay your fees on this, that or the other thing"? It would give the agent the ability to go into an office and to look through the files to check the lading bills or whatever, stumpage fee payments, all that sort of thing, scaling records?

Mr Davidson: That is correct. When we were looking at that situation, we balanced the expectation of privacy with the need maybe to see the bills of lading or the things necessary for the audit requirements in the act. That's how we decided to proceed.

Mr Brown: But if the office happened to be in my home, then the search warrant is required?

Mr Davidson: Because you would have a higher expectation of privacy for your home than, say, a business office.

Mr Hodgson: I just want to get on the record on this thing that I support this amendment. I've had quite a few calls since we went into the public hearings from people concerned for the rights of their homes and things like that. This clarifies that and I welcome the amendment.

The Vice-Chair: All those in favour of Mr Wood's amendment? Carried.

Any further amendments or discussion on section 58? Seeing none, shall section 58, as amended, carry? Carried.

Section 59. Amendments or questions?

Mr Brown: This section 59 just says you can look at the records, but in order to look at the records you have to have complied with 58?

Mr Wood: Yes.

The Vice-Chair: All those in favour of section 59? Carried.

Section 60.

Interjections: Carried.

The Vice-Chair: I know we're on a roll, but—Mr Hodgson?

Mr Hodgson: I was just going to suggest that I had to read this. I hope the government's not suggesting it can bring closure in at this committee level. I think they have to make application—

The Vice-Chair: Mr Hodgson, did you have a question?

Mr Hodgson: No, I don't, Mr Chair; I'm trying to read this.

Mr Wood: I'm satisfied with the speed that we're moving along at. It looks very encouraging.

Mr Drummond White (Durham Centre): At the moment.

Mr Wood: At the moment.

Mr Brown: Perhaps it would save Mr Hodgson and me some time if somebody would just explain the reason for this section.

The Vice-Chair: Anybody wish to do that? Mr Wood?

Mr Wood: Yes. This section reinforces the ministry claim to forest products where crown charges have not been paid. Normally, this would be applied in a situation where a company had declared bankruptcy, for example. Some of the other experience has been that in these situations the crown's ability to collect unpaid crown dues is seen as secondary to other claimants. The ministry does not normally have a significant problem with collection of overdue crown charges; they are usually paid.

1650

The Vice-Chair: Any further debate? Fine. All those in favour of section 60? Opposed? Carried.

Section 61. Mr Hodgson, your amendment is the first one to be discussed. It's number 66 in our bundle.

Mr Hodgson: I move that subsection 61(3) of the bill be amended by inserting "alleged" before "offence."

The Vice-Chair: No, number 66 would be first, please.

Mr Hodgson: Oh, 66. Subsection 61(1.1). Thank you, Mr Chair.

The Vice-Chair: I'm not talking about section 66. I'm talking about the amendment, the page that's—

Mr Hodgson: I've got you, yes.

I move that section 61 of the bill be amended by adding the following subsection:

"Same

"(1.1) A holder of a forest resource licence who,

"(a) fails to comply with an order made under clause 52(a) is guilty of an offence and on conviction is liable to a fine of not more than \$1 million;

"(b) fails to provide information to the minister or to an employee or agent of the ministry as required under

this act or the regulations is guilty of an offence and is liable on conviction to a fine of not more than \$10,000."

This is self-explanatory. In general, what we're talking about is that licences are what are granted by the crown. They're not granted to individuals. If it is, that's fine, but in most cases they're granted to corporations or companies. Really the only correction here is that instead of saying "A person," it's the holder of that forest resource licence. It doesn't necessarily have to be a person.

Mr Brown: I'm having a little trouble following that, the reason. This is a new subsection to section 61 and would be in the act before the subsection (1) that is presently there.

Mr Hodgson: Right. They've got "A person who" and this makes it so it's "A holder of a forest resource licence" as well.

Mr Wood: We feel that this amendment is not necessary because it looks like it's repeating clauses 61(1)(d) and (g). As a result, we won't be supporting this amendment.

Mr Brown: I'm still having a little difficulty and maybe Mr Hodgson could help us a little further with it.

Mr Hodgson: It's been a while since I made this amendment, but let me try on this. I believe the thinking at the time was that we wanted to make it clear that we're talking about a holder of a forest resource licence as well as just a person who meets (a), (b), (c), (d) (e), (f) and (g).

Mr Brown: If I could just ask you a question about that, within the meaning of legislation doesn't "person" mean a corporation? Not being a lawyer, I understand that "person" does mean a corporation or can mean a corporation in our law.

Mr Paul Wessinger (Simcoe Centre): Yes, under the Interpretation Act, that's correct.

Mr Hodgson: Right.

The Vice-Chair: Are you ready then to vote with these explanations?

Mr Hodgson: Fine, yes.

The Vice-Chair: All those in favour of Mr Hodgson's amendment? Opposed? Lost.

Mr Brown, your amendment is next since it was delivered earlier than the Conservative motion. It's the one at the top, 67.

Mr Brown: Is that the proper order, Mr Chair?

The Vice-Chair: I'm advised that yes, it is.

Clerk of the Committee: I'm sorry; my mistake. This is for the whole section 61.1. So now we would go back to Mr Hodgson's to subsection (3), which is this one here, 65.

The Vice-Chair: Okay, 65. Mr Hodgson, you have an amendment to subsection 61(3).

Mr Hodgson: I move that subsection 61(3) of the bill be amended by inserting "alleged" before "offence."

The Vice-Chair: Comments?

Mr Hodgson: You want comments?

The Vice-Chair: If you want to give them; you don't have to.

Mr Hodgson: Let me take one second while I read this.

Mr Wood: Maybe I could be helpful, Mr Chair.

The Vice-Chair: No, I think we should let Mr Hodgson speak to his own amendment.

Mr Hodgson: I believe it's self-explanatory, Mr Chair.

Mr Wood: Briefly, we support in principle what you're saying, but interpretation of offences includes the concept of alleged offences. So we won't be accepting the amendment as brought forward.

The Vice-Chair: Further debate?

Mr Brown: I'm happy that everybody else understands it.

The Vice-Chair: Everybody ready? All those in favour of Mr Hodgson's amendment? Opposed? That is lost.

Shall section 61 carry? Carried.

Now, I understand, Mr Brown, you would like to move a new section.

Mr Brown: I move that part VIII of the bill be amended by adding the following section:

"Industrial forest land base

"61.1(1) A forest resource licence shall specify the land that constitutes the licence's industrial forest land base.

"Compensation

"(2) The minister shall establish a mechanism to compensate the holder of a forest resource licence for loss of past capital investments if the licence's industrial forest land base is reduced."

Mr Brown: Yes. The reason for this amendment is one that I think we all can accept, and that is the concept that if a person is paying to provide capital investment—we have to remember that under these forest agreements and under the crown units people make huge investments at times in roads and other physical improvements to the area in order that they can carry on their activities. If for some reason that land is withdrawn from the licence and the harvest is not able to be completed, it only seems to be equitable to refund the money or have some mechanism to return that capital investment to someone who has not had the ability to use it.

In this scenario, when we talk about trees we talk about 60, 70, 80, 90, 100 years, maybe more, depending on the species, to renew that species. It is conceivable that a corporation or a person has made a huge investment too in roads and in area charges in a large number of areas over the period of 60 or 70 years and it is quite conceivable that in the 69th year, the year before that corporation is about to harvest, for some other reason that land is withdrawn from the industrial forest land base. It does not seem a reasonable thing to do to not compensate for that loss of capital and for that loss of investment.

1700

Mr Wood: First of all, we will not be supporting the amendment as brought forward by the Liberal Party. The amendment, from what I can gather, suggests licensing of

land use, and this act licenses the use of the resource. A subsection requiring compensation would restrict the minister's powers to manage allocations of land to various uses. The subsection could also be used to restrict opportunities for other licensees. Those are the reasons why we will not be supporting the amendment as brought forward.

Mr Hodgson: I'll be supporting this friendly motion; I've proposed one as well that reads exactly the same. I think this is a positive step. There's going to be multi-use of the forest, and we want to sustain it as an ecosystem as a whole. As we get more information—and it was right from the word go, when we first started these committee hearings, that this was going to be an ongoing process—as we gather more data on what makes ecosystems sustainable, that's going to change the nature of what areas we use in the forests for which operations.

If somebody goes out and they make a lot of investments based on a plan that's only five years, there should be some compensation if we come along and, through no fault of their own, no fault of their investors, they find that because of new research or new techniques, or just because that's what the will of the people is, they're going to lose their industrial land base or a portion of it. They should have some mechanism of recourse to compensate these investors, or whomever, who in good faith were told that they had this much timber they could extract and through no fault of their own, not through the fault of the operations or anything, their land base has been limited.

There should be some mechanism that maybe somebody else will pay that if we use it for another use. If we decide that blueberries have a higher market yield one year and that's what they want for their five-year plan, somebody should be compensated from that revenue.

Mr Wood: The only explanation I would give is that both the amendments that have been brought forward by the Liberals and the Conservative caucus—it's true, they're identical. You're talking about licensing of land use, and this is not the intention of the act. The act is intended to license the use of the resource out there, and this is what we would like to see continued all the way through the act rather than referring to the industrial forest land base, which has been suggested in the amendment.

Mr Brown: I'm having a little difficulty understanding that rationale given that the resource must, of necessity, be on land. It seems self-evident to me that the capital that is expended on the resource, which essentially is what it's expended on, can't be withdrawn without compensation being given. After all, we are asking under this act—and it's a reasonable thing to ask and it's a proper thing to ask—that people who harvest the resources that belong to the people of Ontario must replace those resources. That's really what this whole act is about, or is supposed to be about.

Mr Wood: Yes, sustainability.

Mr Brown: I can tell you in boardrooms and in family kitchens in the smaller operations, the willingness to make the investments depends on people's ability to have tenure. I think we've all agreed on that. People, if

they know they can use this resource down the road, are willing to make those capital expenditures that they need to make in an appropriate and proper way. If, on the other hand, the crown can come along and allocate the resource to someone else or can allocate the resource to a different use without compensation, people are going to be unwilling to be the good fellows the parliamentary assistant wants them to be.

You are creating uncertainty in the private sector by not telling them that if you withdraw the resource from them, you're going to compensate them. After all, you've got to pay area fees. I was going to do this some day, but I've never sat down to do it. If you looked at the area fees, for example, that a company would pay over the space of the average productive life of a tree, which may vary from 60 to 120 years, the area fees paid on that tree, I would suspect, would be far higher than the actual stumpage over the space of 120 years.

If you withdraw the resource in that area from a company at some point in the future, it would seem to me that a reasonable person would say: "You have spent that money over the space of decades. You have some right"—well, you have more than a right. We have an obligation as the crown to reimburse you for something you have paid for but now you're not getting.

Mr Wood: Just briefly, the last six or eight months has seen the largest investment in new operations and expansion throughout northeastern and northwestern Ontario. Next year the prediction is that you're talking around a billion dollars of investment of companies that are willing to come into this province or that are in this province and are willing to go out and harvest the trees and replace them on a sustainability basis and reinvest and are not really concerned with what you have raised that much, knowing that this is a renewable resource that can be and will be out there for jobs, for the communities. They can use it for investment in their operations, expanding operations. This has happened on a big scale. We've had somewhere between \$500 million and \$600 million that has been committed to be invested and there are further announcements almost weekly of companies that are making investment and expansion plans.

So to say that if we don't accept the Liberal amendment or the Conservative amendment there's going to be uneasiness out there on the part of the companies—Where is their future tenure?—I haven't got that indication from the companies or the investors or the people out there who are making those investments and are committed to making them next year.

Mr Hodgson: I'd just like to follow up on the parliamentary assistant's comments. He's right that the forest industry has had a rough time in the last number of years and it's just starting to revive itself. I'm very encouraged to hear that people are starting to invest back in the forest industry.

I hope this new act won't change that trend. They've done this under the old Crown Timber Act, all this investment, and now we're going to introduce a new bill. We want to make sure that—you've mentioned the last year. That was done under the old act.

Mr Wood: No. It was done under the new act.

Mr Brown: There is no new act.

1710

Mr Hodgson: This bill hasn't been enacted yet. We're still in committee. Unless I've missed something, this is what we're working on right now, to pass that.

Interjection.

The Vice-Chair: Mr Hodgson, you have the floor.

Mr Hodgson: Thank you, Mr Chairman.

The Vice-Chair: We're working on Bill 171.

Mr Hodgson: Correct, and all this investment that we've heard about in the last year has taken place under the old act. I hope we don't discourage this kind of investment for the future. This act isn't just for today. The last act lasted 40 years, and if we do this right, this will be in place for a number of years. It's supposed to be enabling legislation.

All we're asking for is maybe the option—it's going to have to be dealt with at some time—of a land use plan. The local citizens' committees will come up with their five-year plans and multi-use plans, and forest manuals will dictate how they're used and how they're carried out, but there should be some thought given to compensation, because with changes there are going to be winners and losers. I'm not asking the Ontario taxpayer to pick it up, but there should be some form—if you dedicate land away from forestry, the crown's losing the stumpage fees and the area charges. That could be picked up with another user. There should be some kind of compensation, though, given to people you mentioned, all the new investment that's come in in the last year.

Mr Wood: Six months.

Mr Hodgson: The last six months, under the old Crown Timber Act. Now that we're bringing in the new forest sustainability act, we don't want to shut the new investment and new jobs off. That's why we're taking our time on this and we'd like to see some recognition of an industrial forest concept taken into account and maybe look at the idea of compensation.

Mr Wood: Your comment is that the investment is under the old Crown Timber Act. We have to be up front, and people were aware that over the last eight or nine months there have been negotiations taking place on new business relationships with the understanding that the new legislation would be tabled in the House, first reading, second reading and public hearings and debate out there and amendments, if required, with consultation with the stakeholders out there. This is the period of time that I am talking about when we've had massive investment in the province of Ontario, in northeastern and northwestern Ontario. People were not unaware that the legislation was going to be brought in, tabled, and the commitment was that we were going to do everything within our power, unless we lost our majority in the House—

Mr Hodgson: What took you so long to bring in the act? We should have done this three years ago.

Mr Wood: —to have the legislation finalized by Christmas. So this indication has been out there, we've been talking about this since March, and that's when the

investors started making all the announcements, the major announcements. They're even committed to making double that next year, knowing that the new legislation was coming forward and would be there.

Mr Brown: If I understand this correctly, the government opposes paying compensation for capital investment that is made in good faith and then removed arbitrarily by a government. This isn't a zoning issue like in planning, and we sometimes have difficulty with that. This is where you are paying a fee for a specific purpose; you have been granted a licence for a specific purpose. If the government takes it away before you're allowed to exercise your licence rights, all we're asking is, won't you compensate for that?

There's no suggestion here that there should be any kind of punitive damages for taking that away. We're just saying, can't you compensate for the capital that was invested where in good faith I believed or the company believed that I had every right to use this property under my licence? I think it's only reasonable that that happen. It could be that the government has reallocated part of that licence to someone else. Why shouldn't they pay to use the capital that I expended?

I just have some difficulty with the government not recognizing that you cannot arbitrarily do this to people in this country. It seems to me that compensation should be paid for the capital investment you have made in good faith. Expropriation without compensation is what it is.

Mr Wood: I think we should get to voting fairly quickly, but I'd just make a comment again that both of these amendments we're dealing with right now are talking about licensing of land. We're talking about licensing of a resource and we're talking about that that resource will be put back there on a sustainable basis for years and years, hundreds of years to come. That's why we're saying that we're not prepared to support them, because you're talking about licensing of land; this whole act is talking about licensing of the resource.

Mr Brown: Perhaps the parliamentary assistant would like to give us an explanation, then, why anybody pays area charges if you're not talking about licensing of land.

Mr Wood: Area charges is saying that they want this resource that is on that land for their operations at some future date.

The Vice-Chair: Are we ready to vote?

Mr Brown: Well—

Mr Wood: Yes.

The Vice-Chair: All those in favour of—

Mr Brown: I think we need 20 minutes.

The Vice-Chair: You're calling for a 20-minute recess?

Mr Brown: Yes.

The Vice-Chair: The committee stands adjourned until 5:35.

The committee recessed from 1716 to 1736.

The Vice-Chair: This committee is in session again and we are ready to vote on the amendment by Mr Brown, the new section 61.1.

All those in favour?

Mr Brown: Can we have a recorded vote.

The Vice-Chair: A recorded vote.

All those in favour of Mr Brown's amendment?

Ayes

Brown, Hodgson.

The Vice-Chair: Opposed?

Nays

Hope, Mammoliti, Morrow, Wessenger, White, Wood.

The Vice-Chair: The amendment is defeated.

The Conservative amendment being the same, of course it's out of order.

Are there any further amendments—no. I guess since we don't have a new section 61.1, we can't have anything else.

Section 62: There's a recommendation, I guess, by the government for its own members. Any further comments on, or amendments to, section 62?

Mr Brown: This section calls for the establishment of "forest management boards for such areas as are designated by the minister." I am a little confused as to why the parliamentary assistant is recommending that his own members vote against this section.

Mr Wood: The reason is, the section has been moved up to section 12.

Mr Wessenger: It's already passed.

Mr Wood: Yes.

Mr Brown: Is there an amendment to section 12?

Mr Wessenger: Subsections 12(1) and 12(2).

Mr Brown: Okay. That's my confusion. Thank you.

The Vice-Chair: All those in favour of section 62? Against? The section is struck out.

Section 63: Any amendments, comments? Mr Brown.

Mr Brown: This is a rather simple section which makes perfect sense. The question I have, however—

Interjection.

Mr Brown: The "however's" are important. What about forest resources renewed on private lands?

Mr Wood: In this particular one we're probably talking about a question of law, and I'll ask Stuart Davidson to answer any questions on that.

Mr Davidson: Your question was, what about crown trees that exist on private lands?

Mr Brown: The renewal of crown—

Mr Davidson: That would depend upon the patent—

Mr Brown: I understand that.

Mr Davidson: —designating the land in the first place. So this particular clause wouldn't pertain to those.

Mr Brown: So what is the status of those? There are patents where the pine is reserved to the crown, for example, just to use an example, because it's easier. If on those private lands the pine is harvested, the land owner may plant new pine. Does that remain the property of the crown or the property of the land owner?

Mr Davidson: I would like to qualify the answer, and

I'm not trying to be difficult, as it would depend upon the patent. Case law seems to indicate, and I'm thinking of a case—excuse me, I'll obtain the case for you and give it you, or I'll ask the parliamentary assistant to give it to—that came about four or five years ago and it said that regenerated pine remained the property of the crown.

The Vice-Chair: Okay?

Mr Brown: I guess the explanation is okay. I'm just wondering about the logic of the explanation. If I were the proud owner of land with pine on it reserved to the crown, then what you are encouraging me to do is to plant another species on that land even though it may be more appropriate to pine. It's probably a policy question rather than a legal one.

The Vice-Chair: I don't hear too many answers. Perhaps we're ready for the vote. Mr Hodgson?

Mr Hodgson: I've a similar question to Mr Brown's. I've received a lot of calls from people who are concerned that this section would allow for the pine to be switched to a different type of tree. I just want to know if that's correct or if that would take precedence in the patent, but on the land would dictate what's a crown resource on that private land.

For instance, if there's a patent on pine that says the crown is due stumpage fees on the pine on that land that's privately owned, and somebody regenerates that with a different type of tree, for instance an oak, does the crown have any right to that new type of tree that's been regenerated after the pine was cut?

Mr Davidson: I don't want to sound like I'm going to be equivocal, but it does depend on the patent. If the patent was to specify—

Mr Hodgson: Right, so it's specified in the patent.

Mr Davidson: —a specific tree or a species of tree, and you were to grow a different species of tree, then I would have difficulty seeing how the crown could assert any kind of interest in that tree.

Mr Hodgson: That answers the question. That's been a concern to some people who phoned.

The Vice-Chair: Okay. Ready to vote?

Mr Brown: If I can be clear, the crown policy is to substitute species on private lands, because that's the effect of believing that the pine in perpetuity, even though it is I as a land owner who have regenerated it, still belongs to the crown. I would have done all the work on private land. As you know, there is, pending today's announcement, virtually no incentive to do any kind of reforestation since the government, in its wisdom, decided to take all the forest rebates, tax rebates, away from private forest owners. You are now, if I understand this correctly, saying to people what you should do is to plant a different species.

Mr Wood: What you're talking about is private land, and here we're dealing with crown lands and crown forests.

Mr Brown: But we're not, and you know that. You know that this act applies further than just crown lands. We've had this discussion. We had representations in North Bay, we had representations across the province

about the fact that trees reserved to the crown in old patents are affected by what happens in this act—the stumpage fees, for example.

The government doesn't seem to know what crown land is. They don't seem to understand that private land is impacted, that private manufacturing is impacted. They define crown land as whatever they choose to define it, depending on which section you read, and that is more troublesome from the opposition's point of view.

This act does affect what happens on private land in those cases, and there are numerous cases particularly in the Thunder Bay area, particularly in the Kirkland Lake-Timmins area. There are large tracts of property that have timber rights reserved. It does affect them.

Mr Wessenger: If I can point out, there is a definition of "crown forest," which indicates it's "on land vested in Her Majesty in right of Ontario." So "crown forest" would not apply to private land.

Mr Brown: Yes, it does. I'm thankful for that clarification, but it's wrong. The crown land doesn't just mean crown forest on crown land; it doesn't even include all crown forests.

Mr Wessenger: But what's referred to in section 63, if I might indicate, is crown forests.

The Vice-Chair: Perhaps you could indicate who wants to speak. Mr Wessenger, you wanted to.

Mr Wessenger: I just wanted to indicate that it's clear to me that "crown forest" is defined, and this refers to crown forest in section 63. So all that is recovered in section 63 is "All forest resources...in a crown forest," which means on land that is vested in Her Majesty in right of Ontario.

Mr Brown: Exactly.

Mr Hodgson: Maybe the parliamentary assistant could shed some light on that.

The Vice-Chair: I'm sorry, but who wants to speak next here?

Mr Wood: Under section 63, you're talking about renewed resources and you're talking about one sentence, "All forest resources renewed in a crown forest are property of the crown." We've had the explanation from a legal point of view and I don't know what further we can add to the debate than calling for the vote.

Mr Brown: To the parliamentary assistant, is the government preparing an amendment to deal with questions of maybe not forests, but crown trees on private land? Those are crown resources too. They belong to the people of Ontario.

Mr Wood: When this legislation was introduced, I know the question came up from the Conservative caucus, "What plans do you have out there for private land?" The ministry indicated that this would be dealt with, that a template or a plan would be put in place for that.

Mr Hodgson: We're still waiting.

Mr Brown: That's this fall and we're waiting.

The Vice-Chair: You wanted to speak?

Mr Hodgson: No. I'm ready for the vote on this, but I'll need 20 minutes for the vote.

Mr Mammoliti: I can't believe this. Why? Because you can't find your members?

The Vice-Chair: Are we ready for the vote then? Are we ready to vote on section 63?

Mr Wood: Yes.

Mr Hodgson: I'll need 20 minutes.

The Vice-Chair: This committee stands adjourned until the next time it shall meet.

The committee adjourned at 1749.

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- *White, Drummond (Durham Centre ND)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South/-Sud ND) for Mr Dadamo
Hodgson, Chris (Victoria-Haliburton PC) for Mr Dave Johnson
Johnson, Paul R. (Prince Edward-Lennox-South Hastings/Prince Edward-Lennox-Hastings-Sud ND)
for Mr Wessenger
Wilson, Gary, (Kingston and The Islands/Kingston et Les Îles ND) for Mr Mammoliti
Wood, Len (Cochrane North/-Nord ND) for Mr Dadamo, Mr Wessenger and Mr White

Also taking part / Autres participants et participantes:

Ministry of Natural Resources:
Davidson, Stuart, legal counsel
Wood, Len, parliamentary assistant to the minister

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Filion, Sibylle, legislative counsel

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**Standing committee on
general government**

**Comité permanent des
affaires gouvernementales**

Crown Forest Sustainability Act, 1994

**Loi de 1994 sur la durabilité
des forêts de la Couronne**

Chair: Michael A. Brown
Clerk: Franco Carrozza



Président : Michael A. Brown
Greffier : Franco Carrozza

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
GENERAL GOVERNMENTCOMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES

Thursday 1 December 1994

Jeudi 1 décembre 1994

The committee met at 1007 in room 151.

CROWN FOREST SUSTAINABILITY ACT, 1994

LOI DE 1994 SUR LA DURABILITÉ
DES FORÊTS DE LA COURONNE

Consideration of Bill 171, An Act to revise the Crown Timber Act to provide for the sustainability of Crown Forests in Ontario / Projet de loi 171, Loi révisant la Loi sur le bois de la Couronne en vue de prévoir la durabilité des forêts de la Couronne en Ontario.

The Vice-Chair (Mr Hans Daigeler): Good morning, everybody. Take your seats, please. The committee is continuing its clause-by-clause consideration of Bill 171.

As we adjourned last time, we called for the vote on section 63. There was a request for a 20-minute recess, which means we're now ready to vote on section 63.

All those in favour of section 63? Opposed? Carried. Section 64.

Mr Len Wood (Cochrane North): Mr Chair, I'd like to have unanimous consent to move to section 66.

Mr Michael A. Brown (Algoma-Manitoulin): No.

The Vice-Chair: There is not unanimous consent. Any comments, concerns, questions on 64?

Mr Brown: In this section we have a concern, so we just want to ask the question. We are concerned in clause (2)(a) with the word "measure." It says, "fails to measure, count or weigh forest resources," and we're wondering exactly what the crown means by "measure."

Mr Wood: In all fairness, there are different ways of doing it and that really spells it out, whether you can measure, count or weigh forest resources in accordance with the Scaling Manual. The Scaling Manual, I'm sure, will give more detail as to how the crown makes sure that proper stumpage is collected for the resources out there that are harvested.

Mr Brown: Would, for example, "measure" include an estimation by the ministry of the amount of wood that might be on a particular unit? Could "measure" be stretched to a rough estimation? That's what I'm asking.

Mr Wood: I don't have the exact definition of "measure" there, but I know the word "measure" is used in a lot of different instances. As we walk around in ordinary life, we measure clothes to make sure they fit, measure for cooking. You want a definite interpretation or definition of the word "measure." I don't have it right at my fingertips.

Mr Brown: To be clear, you are expecting this committee to approve this clause without any indication about what the government means.

Mr Wood: No, I'm not. I'm saying it's in accordance with the Scaling Manual.

Mr Brown: But the Scaling Manual can be changed at any point.

Mr Wood: There has to be consultation and discussion.

Mr Brown: There doesn't have to be consultation; there doesn't have to be discussion.

Mr Wood: Those dialogues and discussions and consultations are taking place right now.

Mr Brown: There is no requirement in law—because this is the law, this is the act—for any public consultation or any kind of consideration to be given to this issue. You know that. The fact that you're doing it is commendable, but you are not required to do it.

We want to know this morning—because this is the last opportunity, as the Chair knows, to speak to this bill, period—what does "measure" mean?

Mr Wood: You'll have a chance to have a debate in the House on third reading on it. The measurement, as I said before, is "measure, count and weigh forest resources in accordance with the Scaling Manual," and the Scaling Manual has been put together in consultation, in partnership with the forest industry out there. I'm sure that if there's any concern, the forest industry is going to come after us and make sure there is further consultation before the final draft of the Scaling Manual is approved.

Mr Brown: I want to say first that we are operating under extraordinary circumstances this morning. We are operating under a closure motion brought forward on this bill. This is the last opportunity that the opposition has, or the public has through the opposition, to ask these questions. We have gotten non-answers to most of our questions through the last six or seven days.

Mr Bisson (Cochrane South): I disagree.

Mr Brown: I hear the member disagree, and he's proud to do that, and I'm happy he's doing it, but any reading of Hansard would find that the answers have been vague at best. They usually refer to a manual that hasn't been completely drafted, that is not finished. The parliamentary assistant at least at this point should not offend the Parliament of this place by not giving us a direct answer to what a word means, because it has huge implications.

If the crown is to collect the dues on the estimate, on an average of someone driving by that forest saying, "I think there's that much wood and that's how much we will charge and that's our measurement," either the crown

is shortchanged or the people harvesting that forest are shortchanged. Somebody loses.

We want to know, and we want to know now, what "measure" means.

Mr Wood: In responding to the concerns of Mr Brown, I would take exception. We have answered all of the questions in detail, and I'm satisfied that you have received the explanations you are looking for as we've gone through clause-by-clause of Bill 171.

Mr Brown: Prove it. Tell me what "measure" means now.

Mr Wood: The definition of the word "measure" is no different from what you would find in the dictionary. Look under the word "measure" and get the definition. It's there in the dictionary, and it applies to scaling as it applies to the determination of volume. I don't know what other definition you want of the word "measure" than what I've already given you.

Mr Brown: Well, I'll ask you a less-than-hypothetical question. I'll ask you a direct question.

The Vice-Chair: Mr Hodgson, then Mr Grandmaitre.

Mr Brown: I thought I still had the floor.

The Vice-Chair: You still do have the floor, but we should, in fairness, give the other members some chance.

Mr Brown: Would "measure" include, in the parliamentary assistant's view, a measurement based on an estimate?

Mr Wood: If you take the words "fails to measure, count or weigh forest resources," all the measurements are being covered there. You've singled out one word, "measure." As far as I'm concerned, it's as clear as a bell how you account for the resources out there.

Mr Brown: Could it include an estimate? I understand what "count" and "weigh" mean. I even understand what taking a ruler to a truck might mean. I'm not sure I understand what "measure" means.

Mr Wood: The Scaling Manual will have the details around the methods that are being used.

Mr Brown: But the Scaling Manual can say anything.

The Vice-Chair: Sorry, Mr Brown. We've got Mr Hodgson up.

Mr Chris Hodgson (Victoria-Haliburton): I'd like to follow up on this. This came up earlier in our proceedings. We dealt with subsection 66(1) and we had an amendment to have the Scaling Audit Reference Manual included as part of the Scaling Manual. I believe the parliamentary assistant recalls the conversation where we wanted a separate manual to deal with scaling and the scaling audit manual. It's the ministry's own guide. It meets the Canadian Standards Association's criteria.

I was wondering if you could share with me some of the workshop discussions on this Scaling Manual. Are there people out there who want to be able to count or to cruise timber as a way of measurement? I was told at the time that there is quite a split within the ministry between those who want to stick to the detail of actual scaling as approved by the scaling audit—it's something you can audit—and people who want to go towards more along the lines that eventually you'll just cruise an area of land

and it'll be counting what should be paid to the crown. Our whole point is that counting is part of, is inside the scaling; it's not a separate way to measure in terms of paying for it.

Mr Wood: When you are referring to the word "count," there are samples that are taken—

Mr Hodgson: Okay, so inside the Scaling Audit Reference Manual. You don't see that ever deviating from the Scaling Manual? That's in there, it's in subsection 66(1), and that's going to be the procedure that's used in the future? I didn't bring it with me, Mr Wood. To help you out, I brought in the booklet the ministry produced itself, and it's according to auditing standards. We made an amendment and put that into the Scaling Manual. We didn't have a separate manual for it. And that's how this counting will take place, inside that manual?

Mr Wood: Yes. Any changes made to it would be under broad consultation with the industry, if there were any changes made to the manual.

Mr Hodgson: Are you trying to make changes today?

Mr Wood: No.

Mr Hodgson: Are they trying to be made in the foreseeable future?

Mr Wood: No.

Mr Hodgson: So they're not trying to be made right at the workshops for the final draft of the manual?

Mr Wood: I haven't sat inside the workshops, but to my knowledge those changes are not being made.

Mr Hodgson: There are people here who have. I'm sure there's somebody in the room who would be able to answer that question. If we're going to follow the Scaling Audit Reference Manual—

Interjection.

Mr Hodgson: We're not.

Mr Wood: As I said before, to our knowledge and to my knowledge, no, we're not making the changes, and I said "to my knowledge and to our knowledge."

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Mr Hodgson: I'm new at this. The parliamentary assistant is telling me that the government's position is that that's so. Okay? We're being asked to vote on this right now and that's why it's important to me.

Mr Wood: Yes.

Mr Bernard Grandmaitre (Ottawa East): Mr Chair, we can't get a definition this morning of the word "measure." The parliamentary assistant told Mr Brown that he would have an opportunity in the House on third reading to get those answers. Well, I'm asking the parliamentary assistant, if Mr Brown or myself or anybody else for that matter were to ask for a definition of "measure" on third reading, what would the answer be?

Mr Wood: I think if you check Hansard, I said there will be a debate in the House on third reading.

Mr Grandmaitre: You did, I agree. But would we be given an answer?

Mr Wood: I have said on numerous occasions over the last 15 minutes that a definition of the word "measure" is in the dictionary.

Mr Grandmaître: That's the answer we would get in the House?

Mr Wood: That's the answer I would give you in the House, yes. And if you take into consideration the words "fails to measure, count or weigh forest resources in accordance with the Scaling Manual," if you look at the whole clause (a), it's all part of making sure that for the resources that are being harvested on crown land, the crown receives what it's entitled to at the time harvest is taking place.

Mr Grandmaître: So what you're telling us this morning is that your definition of "measure" would be the same on third reading. It wouldn't change. You wouldn't attempt to answer all the questions posed by Mr Brown to get a better definition of the word "measure." We would receive the same answer in the House.

Mr Wood: As the way it is spelled out in clause 64(2)(a).

Mr Grandmaître: So we're not getting an answer this morning. We won't get an answer—

Mr Wood: You've got a definite answer. I've given you a definite answer.

Mr Grandmaître: We won't get an answer on third reading. That means that clause (2)(a) is not fully answered and we will have to accept this because, as you know, this is the last day and on third reading it'll be deemed to be acceptable or accepted without real definitions or answers to our questions.

Mr Bisson: As to what Mr Brown raised about getting answers from the parliamentary assistant, I want to put on the record that I think the parliamentary assistant and the work he's been doing on this committee have been exemplary. He responded, I thought, quite well to the questions and has worked well with the industry in finding the proper compromise necessary to make this act the best and probably the most well-written act we have seen when it comes to forest management, and I'd just like to take this opportunity to say so.

Mr Wood: Thank you.

The Vice-Chair: I'm sure the parliamentary assistant appreciates that. Mr Hodgson is next, then Mr Brown.

Mr Hodgson: This is a question to the parliamentary assistant. There were some presentations when we were on the road that talked about the certification for scalers, and there's a concern that the sections of the bill on scaling of forest resources have been scaled down from the previous act. Can you comment on that? Are the regulations now complete for what qualifications you're going to have to have to get a licence to be a scaler in this province? That was a concern we heard when we were on the road. Are they the same as they were before, that to get a licence to be a scaler in the province of Ontario your regulations are the same regulations?

Mr Wood: If I understand, you mean looking at some standard course for scalers so they'd be standard throughout the province?

Mr Hodgson: Yes.

Mr Wood: I understand that is the case.

Mr Hodgson: Okay. That was just a concern we

heard when we were on committee hearings.

Mr Brown: Mr Chair, I must apologize. I left my Funk and Wagnall in my other suit. I want to know if the dictionary defines "measure" to include "estimate." You're quite happy to defend the dictionary definition. I want to know.

Interjection: There's the Oxford dictionary.

Mr Brown: We're not going to use Funk and Wagnall; we're going to use Oxford, are we? That would be a second question: Which dictionary do we want to use?

Mr Hodgson: Check out "sustainability" while you're at it.

Mr Brown: I see the ministry scrambling through the Oxford at the moment.

Interjections.

The Vice-Chair: Can we have some order, please.

Mr Wood: Mr Brown said he forgot to bring his dictionary with him. Most of the words we use in this are explained in the dictionary as well as covered under the Scaling Manual. There will be more information there than what is in the legislation in terms of "measure, count or weigh forest resources in accordance with the Scaling Manual," and that is to make sure the province gets the proper compensation it is entitled to for that.

The Vice-Chair: Are we ready to vote on 64?

Mr Grandmaître: We're going through the dictionary to find out what "measure" really means, but when I read it in French, it says, "ne mesure pas." When you use "ne mesure pas," it doesn't mean measure.

The Vice-Chair: The Chairman shouldn't intervene, but the English says "fails to measure."

Mr Wood: There are experts out there who have the proper knowledge to do the proper translation, and I'm sure we can have it checked.

Mr Grandmaître: "Ne mesure pas" is not the same as "measure." You look up your Larousse, it doesn't mean the same thing.

Interjections.

The Vice-Chair: Mr Grandmaître has the floor. You're finished with your question?

Mr Grandmaître: I've asked a question and I haven't had an answer.

Mr Wood: Just briefly, because Mr Brown had asked whether "measure" could mean an estimate, you'd have to talk estimate by some standard rule, and that will be explained in the Scaling Manual.

Mr Brown: So estimates are included, I take it.

Mr Wood: There will be a standard rule that will apply.

Mr Brown: But that standard rule could include "estimate."

Mr Wood: Are you looking for a definition of the word "estimate?"

Mr Brown: No, I'm not. I know what "estimate" means. I think we have discovered that it does mean estimate, and I think that causes a great deal of difficulty for both the Finance minister of the province of Ontario

and the person who is being assessed the dues on the basis of the estimate.

Mr Bisson: Just for the record, M. Grandmaître, the member for Ottawa East, made a comment in regard to section 64 of the act where the translation from French to English didn't mean the same.

I just want to point out for the record what subsection 64(2) says in English, "The minister may suspend or cancel a scaler's licence if the scaler, "(a) fails to measure, count or weigh forest resources," etc etc. If you read the French section, it basically says the same. "Ne mesure pas," means "fails to measure," and I would like the record to show that.

Mr Grandmaître: Look up Larousse and you'll get a different answer.

The Vice-Chair: Comments on 64? Are you ready to vote? All those in favour of section 64? Opposed? Carried.

Section 65.

Mr Bisson: For the parliamentary assistant, I would like to know what the word "registered" means.

Mr Wood: "Registered mail" is a pretty common reference. Any time I get a registered letter in the mail, I have to sign for it, or somebody cosigns.

The Vice-Chair: Any other questions? Ready to vote? All those in favour of section 65? Opposed? Carried.

Section 66 was voted on already; however, there is an amendment put forward by the government, and it will require unanimous consent to reopen section 66.

By the way, I should mention before I give anyone the floor that according to the motion from the House any additional amendments that haven't been submitted yet have to be given to the clerk prior to noon today. We did receive an additional amendment from the Liberal caucus, but if anyone else wishes to submit additional amendments they have to be submitted prior to noon today.

Mr Wood: Mr Chair, in all fairness, we have some people here from the Federation of Ontario Naturalists with whom we have worked in consultation and agreed that we would do everything we could to open up section 66, realizing that we needed unanimous consent to do it. Once again, I would be asking for unanimous consent to open section 66 to deal with an amendment that a number of people have brought forward. It would be very helpful in seeing that this legislation is finalized, and it will be out there for probably years and years to come, seeing as the other act was there 52 years before any major changes were made to it. I'd like to ask for unanimous consent to proceed with that.

Mr Brown: The parliamentary assistant would know that I think there needs to be a private conversation take place before he asks the question. We are very interested and presented an amendment that is also out of order, that applies to a different section, section 23, and we would like the assurance that the amendment would be considered favourably and that the committee would grant us consent on that amendment. Our decision on this one may be contingent upon his response.

Mr Wood: At this time we're dealing with section 66.

Mr Brown: No, we're dealing with section 67.

Mr Wood: We had an agreement. If you look at Hansard, a number of comments were made over the past several weeks that section 66 would be dealt with by unanimous consent, but only when we got to it in sequence. We've reached this point and we would definitely like to deal with section 66, by unanimous consent.

Mr Brown: You're not going to get it right now unless you want to have a little talk.

Mr Wood: Are you asking for a recess?

The Vice-Chair: Are we proceeding?

Mr Bisson: Just move a recess of the committee.

The Vice-Chair: According to the conventions of the committees that were explained again to us yesterday, anybody can request a recess of up to 20 minutes.

Mr Brown: Only on a vote. There's no vote here.

Mr Wood: Let's recess for seven or eight minutes.

The Vice-Chair: You're requesting a seven- or eight-minute recess? Is that agreed to by the committee? Okay, we will return at 20 to 11. This committee stands adjourned.

The committee recessed from 1034 to 1046.

The Vice-Chair: This committee is in session again. Are we ready to ask whether there's unanimous consent?

Mr Brown: I don't know.

The Vice-Chair: Mr Brown, do you wish to speak before I ask?

Mr Brown: Well, I'm not clear what the answer was.

The Vice-Chair: No answer has been given at the committee until it is asked, and I haven't asked yet.

Mr Brown: To section 23?

Mr Wood: To your question, it was no.

The Vice-Chair: Is there unanimous consent to reopen section 66?

Interjections.

The Vice-Chair: I hear definitely one "no," so we will move on to section 67.

Mr Bisson: I don't know if I'm in order, but I'd just like to comment on that.

The Vice-Chair: You can of course request the floor at any time.

Mr Bisson: I'm requesting the floor.

The Vice-Chair: Mr Bisson.

Mr Bisson: I just want to make sure it's well understood in the public record what's happening here. We were asking for unanimous consent to open section 66 up to deal with some of the discussions we had with the Ontario naturalists' association and others.

What Mr Brown was asking us to do within section 23, quite frankly, would have put the government in a funny spot in regard to the licences. Presently what you have is a 20-year licence that's renewable every five years, and what he was asking for was a straight 20-year licence, which would have meant you would have to go back and change regulations within the act and possibly we'd have to go back and change the manuals within the act. What

we have is that every five years you go back and review the performance of the licence, and by reviewing the performance of the licence, it's an opportunity, if there's a problem, to remedy it. If we had gone to what Mr Brown suggested, we might have been able to put in the regulations that you can review the performance in five years, but you'd be stuck saying you either get a licence or you don't get a licence, which might be very contrary to the industry. For that reason, we were not able to support the amendment Mr Brown was looking for. So with regret, we were not able to open 66 unanimously. We'd hoped we could have, but that was the explanation.

Mr Hodgson: I have a question to the Chair. If the government had gone to committee of the whole, would they need unanimous consent to open up section 66?

The Vice-Chair: I'm informed that they would not have had to require unanimous consent.

Mr Hodgson: After that answer, I'd like to ask the parliamentary assistant why they didn't choose to go to committee of the whole instead of just invoking closure. If section 66 includes more public involvement in the decision-making process, why did the government choose not to go to committee of the whole with this?

Mr Wood: Our understanding was—and, yes, I could be corrected—that as we got to section 66 we would get unanimous consent to proceed with the necessary amendments. But as of this morning there was another amendment that came forward by the Liberal caucus that we could not agree to.

Mr Brown: I think Mr Bisson and Mr Hodgson have made good points. To be clear, we are in favour of the amendment to section 66. We have no problem with the amendment to 66. What we have is a government that has produced a closure motion, a time allocation motion, which is short-circuiting the parliamentary process. This could have been fixed by the government if it had followed the normal process that bills go through in this place. The government has chosen to bring down this closure motion, which requires the committee—the parliamentary assistant talked about third reading debate. This motion calls for one hour of debate on third reading. Normally the time is divided equally. That means our party will have 20 minutes, the Conservatives will have 20 minutes and you will have 20 minutes, and we will get from you a flowery speech about sustainability, which you are afraid to define in the act.

We will get those wonderful words that have absolutely nothing to do with this piece of legislation in front of us. That's what we will get, and if you think we're angry, you're right. We're angry, we're upset, and the people of Ontario should be upset by the way this bill is proceeding. You expect the opposition to fix your mistakes. Well, I don't see a whole lot of cooperation. Cooperation died the day you brought down the closure motion.

I don't like the idea that you are holding us hostage to your particular agenda in the most undemocratic fashion by a most undemocratic government. There have been four closure motions in less than 20 days. We didn't sit for five weeks because—I don't know—you couldn't get up in the morning or whatever it was. We were quite prepared to come to work. We would have debated this

bill for another 25 hours in committee under the normal procedures of this Legislature, and you're expecting us today to fix your mistakes. Well, I'm not sure that any responsible opposition would do that.

The Vice-Chair: Mr Wood, and then Mr Bisson has the floor still, but we should really move on to a section since we are in clause-by-clause consideration. We are really not discussing any section right now, since section 66 has already been passed. Mr Wood, then Mr Bisson, and then we'll move on to section 67.

Mr Wood: Thank you very much, Mr Chair. I agree that we'll be dealing with section 67.

I have listened to the lecture from Mr Brown from the Liberal caucus. The only thing I can point out is that when we decided to go out to committee, the agreement was, by all three parties, that we would be three weeks in committee and then one week of clause-by-clause. As you're aware, we've gone considerably longer than that, and as a result we've moved to closure, or what we prefer to call time allocation, so we can have the democratic process of moving through clause-by-clause and bringing in the legislation for third reading. That's the only comment I have, Mr Chair.

The Vice-Chair: Point of order, Mr Brown?

Mr Brown: First of all, the parliamentary assistant isn't speaking to section 67.

Interjection: Neither are you.

Interjection: People who live in glass houses shouldn't throw stones.

The Vice-Chair: Your point of order, Mr Brown?

Mr Brown: That was my point of order. We should be dealing with section 67.

The Vice-Chair: Let's do so, Mr Bisson.

Mr Brown: The second is that there was no agreement in the House—

The Vice-Chair: I'm sorry, Mr Brown, but you don't have the floor. Mr Bisson.

Mr Bisson: Thank you very much, Mr Chair. For the record, just to clarify, I understand where the member of the opposition is coming from. He's playing the role that an opposition member must play. I think we respect that. We were in opposition long enough to understand where you're sitting and where you're coming from, some 50 years, but the reality in opposition is that we had made a decision as an opposition party at the time that we would hold up certain pieces of legislation but we wouldn't try to hold up every piece of legislation, quite frankly.

Now, we've been at this bill since last spring. We went out; we consulted through the committee process. We all, and I know Mr Brown has done this himself, have gone back and worked with individuals within industry and within the environmental movement. I have certainly done so. Mr Len Wood has done countless meetings along with the minister on this issue. We've been working. We have a fairly good agreement about where we need to go at this point with the legislation both from industry and from the naturalist side.

What's happening is that we're moving a closure motion, as you would like to call it, on this piece of

legislation because the reality, Mr Brown, is that if you had the opportunity, you would hold this bill up until the end of the session so it wouldn't pass into law. We do have a right to govern; we won that right in 1990, and we're moving this legislation forward. Why? Because it's the right thing to do. This piece of legislation is long overdue, and will put in place the kinds of mechanisms we need to sustain this industry into the year 2000 and beyond. I know that's what you want in the end, Mr Brown, and I just wanted to put that on the record.

The Vice-Chair: We'll move on to section 67 now. Are there any questions, comments, amendments?

Mr Wood: I move that subsection 67(1) of the bill be amended by adding the following paragraph:

"11.1 requiring information specified by the regulations to be provided when a forest resource licence is transferred;"

The Vice-Chair: Any explanation?

Mr Wood: The intention of this section is to describe the regulatory powers related to transfer of a licence. It's an administrative change to avoid requiring a term and condition on all licences and provides for consistent application of this information as a requirement.

Mr Hodgson: Mr Chair, where is the amendment he's referring to?

Mr Wood: It's number 77.

Mr Hodgson: Are you reading amendment 79A? Is that what we're dealing with? No?

The Vice-Chair: It's to subsection 67(1). In your bundle it's number 77. Any further questions?

Interjection: All in favour?

The Vice-Chair: Just a minute. Mr Hodgson hasn't found it. Is it clear now? Are we ready? Any further comments?

All those in favour of Mr Wood's amendment? Opposed? Carried.

Do you have a further amendment, Mr Wood?

Mr Wood: I move that paragraph 18 of subsection 67(1) of the bill be amended by inserting "amendment" after "renewal" in the second line.

The Vice-Chair: As he indicated, it's the second line, since the oral reading goes first. Any comments, questions?

All those in favour? Opposed? Carried.

Further amendments, Mr Wood?

Mr Wood: I move that subsection 67(1) of the bill be amended by adding the following paragraph:

"18.1 exempting a forest resource processing facility from section 50;"

The Vice-Chair: Any questions?

Mr Grandmaitre: "...processing facility from section 50." What does that mean, what relationship?

Mr Wood: Section 50 is talking about the licences that are required for a facility: "...increase the productive capacity of a facility or convert a facility to another type of facility, except in accordance with a forest resource processing facility licence...."

The Vice-Chair: Ready to vote? All those in favour of Mr Wood's amendment? Okay? Any further amendments? Seeing none, any further questions or comments?

All those in favour of section 67, as amended? Opposed? Carried.

Section 68: Any questions? All those in favour of section 68? Opposed? Carried.

Section 69: Questions, comments, amendments? Seeing none, all those in favour of section 69? Opposed? Carried.

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Section 70: Any amendments? Any questions, comments? Seeing none, all those in favour of section 70? Opposed? Carried.

Section 71: Questions, comments? Seeing none, all those in favour of section 71? Opposed? Carried.

Section 72: Amendments?

Mr Wood: I move that subsection 72(2) of the bill be struck out and the following substituted:

"Same

"(2) No action or other proceeding shall be brought in respect of any loss or damage arising from,

"(a) the enactment of subsection (1);

"(b) the amendment of a forest resource licence under section 31 or 35;

"(c) the granting of a subsequent forest resource licence under section 35; or

"(d) the suspension or cancellation of a forest resource licence under section 56."

The Vice-Chair: I'm sorry, Mr Wood, but this is not what we have. Can we try again?

Mr Wood: My apologies. The other one comes next.

I move that subsection 72(1) of the bill be struck out and the following substituted:

"Sustainable forest licences

"72(1) An agreement entered into under section 6 of the Crown Timber Act and in existence immediately before this section comes into force shall be deemed to be a licence granted under section 23 of this act and the terms and conditions of the agreement shall be deemed to be the terms and conditions of the licence."

The Vice-Chair: Any questions, comments? All those in favour of Mr Wood's amendment? Opposed? Carried.

Any further amendments to section 72?

Mr Wood: I move that subsection 72(2) of the bill be struck out and the following substituted:

"Same

"(2) No action or other proceeding shall be brought in respect of any loss or damage arising from,

"(a) the enactment of subsection (1);

"(b) the amendment of a forest resource licence under section 31 or 35;

"(c) the granting of a subsequent forest resource licence under section 35; or

"(d) the suspension or cancellation of a forest resource licence under section 56."

The Vice-Chair: Any comments, questions?

Mr Brown: Yes. Why?

Mr Wood: The rationale behind this particular one is that an FMA becoming an SFL, amending a forest resource—the motion replaces the current subsection and better protects the government against compensation claims that could possibly arise, and (a), (b), (c) and (d) have been spelled out. Our expert legal opinion indicated that the act should specifically provide the government protection from claims of compensation that might arise as a result of enactment of the bill and specific sections of the bill.

Mr Brown: I feel like a dying gasp. We'll reiterate our huge objection to the ministry refusing to define the words "loss" or "damage" as they relate to a timbering operation. I've made those arguments thousands of times before, but it seems impossible to me that you can operate in the forest without some loss or damage as you come forward, so a definition of what they may mean might be helpful to someone who is trying to operate in the forest. But as I've spent much time arguing that particular point, I will leave it at that.

The Vice-Chair: Any further comments, questions? All those in favour of Mr Wood's amendment? Opposed? Carried.

Further amendments to section 72? Seeing none, all those in favour of section 72, as amended? Opposed? Carried.

Section 73: Comments, questions? All those in favour of section 73? Opposed? Carried.

Section 74: First, are there any comments or questions, amendments? Seeing none, all those in favour of section 74? Opposed? Carried.

Section 75: Amendments, comments? All those in favour of section 75? Opposed? Carried.

Section 76: Amendments, questions?

Mr Hodgson: I have a question on 76. The master plan for Algonquin Park is going to comply with the requirements under the Crown Forest Sustainability Act. That will entail setting up a citizens' committee. Is that what's envisioned here?

Mr Wood: I missed the first part of your question.

Mr Hodgson: Under section 76, we're going to make it so the Algonquin Forestry Authority Act is subject to the Crown Forest Sustainability Act and therefore what's been going on in Algonquin Park—there are master plans that take place and they have some public meetings and make a show of some type of consultation. But in the future, will this be under the same terms and conditions as for the citizens' committee that will draw up the five-year plan? Take a minute. I'll be asked this question.

Interjection.

Mr Hodgson: What's that?

Mr Bisson: I wasn't listening. I missed the last half of what you were saying.

Mr Hodgson: Under section 76.

Mr Wood: I think in your answer, it's the—no, it's the forest management plan.

Mr Hodgson: That's what I'm asking. So the master plan process will be superseded by this new act when it comes into place?

I'll give a bit of history of this, if you want, to make it clearer. There are a lot of people in my riding who have had concerns with the process that goes on for planning the use of Algonquin Park. As I read this, "The master plan shall comply with the requirements that apply to a forest management plan under the Crown Forest Sustainability Act," and that's in subsection 76(4) of the bill, subsection 11(2.1) of the act.

Mr Wood: I think, Mr Chair, if you don't mind, and the committee accepts it, I would get Ken Cleary to give an explanation to the question.

Mr Hodgson: Yes. Practically, I want to know how it's going to work when this act is put into place.

Mr Ken Cleary: Ken Cleary, policy and program division, Natural Resources. I think there's a little bit of misunderstanding in terms of the terminology. As I understand it, the master plan speaks to all of the operations within the park. The forest management plan—I have to be careful with my terminology here—I think would be considered as somewhat subservient to the master plan, so it would be a subset of the master plan. It's the forest management plan that would have to be consistent with the act, and in that regard I think there would be a requirement for a citizens' committee. Whether the citizens' committee would in turn speak to the overall master plan, I'm not quite clear on that point.

1110

Mr Hodgson: That's what I have to be clear on, because we're planning this in terms of a forest ecosystem approach. It's not just dealing with timber any more and the ecosystem itself should supersede this old, outdated idea, the master plan. I thought this was the enlightened new policy for guiding crown land in the future. That's what I heard the other day at the motion on closure, again. Shouldn't the requirements of the Crown Forest Sustainability Act, with the citizens' committees and the process that's been envisioned, take precedence over top of the master plan that's been put into place? We would be concerned about Algonquin Park as an ecosystem, wouldn't we?

Mr Cleary: Yes, I believe we would. It's your choice of words, I guess, "taking precedence over."

Mr Hodgson: Well, to make it clear, who will be the guiding authority there? Will the ecosystem take precedence over the Algonquin authority or will their plans that might be economic in interest or whatever—would they not just be a part of the citizens' group that has input into how Algonquin Park is going to be managed?

Mr Cleary: I think the master plan would speak to, for instance, the interpretive program within the park that might not relate directly to forest management. That's the only part that I'm hesitating on. Certainly the forest management plan would be consistent with the objectives within that park, which would be spelled out in the master plan, so I don't mean to imply there is any room for inconsistency.

Mr Hodgson: You know what I'm getting at, Ken. I

want to know, what are the steps to deciding land use in Algonquin Park in the future under this act?

Mr Cleary: I guess what I'm saying is I'm not sure whether or not the master plan requires a local citizens' committee. Certainly the aspects of that master plan which would involve forest management planning would require a citizens' committee, and obviously there would be some overlap. Whether the citizens' committee's influence would extend into influencing the master plan, I'm simply not clear. I can certainly get an answer to that question for you.

Mr Hodgson: Okay. But in general, the process that you see that will take place around these issues will be consistent with the Crown Forest Sustainability Act.

Mr Cleary: Yes. It would have to be, yes.

Mr Hodgson: Okay, thank you.

Mr Brown: This probably isn't a substantive comment, but I think there has to be seen by the public of Ontario some irony, and maybe it's just me, but I think maybe some other people might see the irony of a government led by a person who is proud to put on a plaid shirt and get himself arrested to protect trees in the province of Ontario—

Mr Wood: This has nothing to do with the section we're on.

The Vice-Chair: Mr Brown has the floor.

Mr Brown: I'm sorry you don't find the irony in it and don't want me to talk about it, but it's led by Mr—

Mr Wood: You can talk about all you want; just deal with section 76.

The Vice-Chair: Mr Wood, Mr Brown has the floor.

Mr Brown: I think I've touched a nerve—led by a person who is prepared to stand on a logging road, probably prepared to chain himself to a tree in order that he can now come and make amendments to permit logging in Algonquin Park. If people don't see the irony in that, I don't know.

Mr Wood: It's always been going on in the park.

Mr Brown: It always has been in Temagami also.

The Vice-Chair: Mr Brown has the floor. I guess Mr Brown is finished with his comments. Any further question or comments on section 76?

Seeing none, all those in favour of section 76? Opposed? Carried.

Section 77: Questions, comments, amendments? All those in favour of section 77? Opposed? Carried.

Section 78: All those in favour of section 78? Opposed? Carried.

Section 79: Amendments? All those in favour of section 79? Opposed? Carried.

Section 80: All those in favour? Opposed? Carried.

Section 81: Amendments, questions?

Mr Grandmaître: Mr Chair, I think we're going a little too fast. Can I go back to section 80?

The Vice-Chair: We've passed section 80. We're on section 81 right now.

Mr Grandmaître: This is very unfair.

Mr Wood: Let's vote.

The Vice-Chair: We requested, as the Chairman always does, any comments, and I'd be pleased, of course, to receive any questions or comments, but we are now on section 81.

Any questions, comments, amendments? All those in favour? Opposed? Carried.

Section 82: Questions or comments? All those in favour of section 82? Opposed? Carried.

Section 83: Comments, questions, amendments? All those in favour? Opposed? Carried.

Section 84: Comments, questions, amendments? All those in favour? Opposed? Carried.

Section 85: Mr Wood.

Mr Wood: I move that section 85 of the bill be struck out and the following substituted:

"Commencement

"85. This act comes into force on the first of April"—

The Vice-Chair: No, "on the first April 1."

Mr Wood: Okay—"on the first April 1 following the day this act receives royal assent."

Thank you, Mr Chair, for assisting me with that tongue-twister.

The Vice-Chair: Any questions, comments? All those in favour of Mr Wood's amendment? Okay.

Further amendments, questions to section to 85? Mr Brown.

Mr Brown: No, not to 85.

The Vice-Chair: All those in favour of section 85? Opposed? Carried.

Shall section 85, as amended, carry? Opposed? Carried.

Section 86.

Mr Brown: I would like to ask again for unanimous consent of the committee to reopen section 23 to accommodate a Liberal amendment.

Interjections: No.

The Vice-Chair: I haven't asked the question yet. Is there unanimous consent to reopen section 23?

Mr Wood: No.

The Vice-Chair: There is not.

Mr Brown: In that event, I would like to ask the committee, in spite of the government's reaction to what we think has been a reasonable suggestion put forward by our caucus and others at this committee, that we have unanimous consent to reopen section 66.

The Vice-Chair: Is there unanimous consent to reopen section 66? Agreed.

If we open 66, we also have to open 67 because there is a consequential amendment. Is that agreed with the committee? Agreed.

We're going back to section 66, and I think Mr Wood has an amendment.

Mr Wood: I move that subsection 66(2) of the bill be struck out and the following substituted:

"Forest Management Planning Manual

"(2) The minister shall ensure that every forest man-

agement plan complies with the Forest Management Planning Manual.

"Same

"(2.1) The Forest Management Planning Manual shall contain provisions respecting,

"(a) the contents and preparation of forest management plans, forest operations prescriptions and work schedules, including public involvement and decision-making processes;

"(b) determinations of the sustainability of crown forests for the purposes of this act and the regulations in accordance with section 1.1;

"(c) the requirement that management objectives in each forest management plan be compatible with the sustainability of the crown forest; and

"(d) the requirement that indicators be identified in each forest management plan to assess the effectiveness of activities in achieving management objectives and to assess the sustainability of the crown forest.

"Same, amendments

"(2.2) An amendment to the Forest Management Planning Manual shall be subject to review and comment by the public in accordance with the regulations."

1120

Mr Grandmaître: On (2.1)(b), why is the word "ecosystems" removed? Clause (2.1)(b), "determinations of the sustainability of crown forests for the purposes...." Why was "ecosystems" removed from clause (2.1)(b)?

Mr Wood: Removed from what? From the original—

Mr Grandmaître: From clause (2.1)(b).

Mr Wood: If I could, I would refer this to Frank Kennedy.

Mr Frank Kennedy: Frank Kennedy, with the Ministry of Natural Resources. This change was made simply to be consistent in the use of terminology within the act. The phrase "ecosystems" is contained in the definition of crown forest, which is found in subsection 2(1).

Mr Grandmaître: If the word "ecosystems" was to stay in clause (2.1)(b), it wouldn't change the real purpose of the amendment. Right? If it was to remain in clause (2.1)(b), what would it change?

Mr Kennedy: In my opinion, it would have no effect.

Mr Grandmaître: No effect on what?

Mr Kennedy: There would be no change if that word was in there.

Mr Grandmaître: No change?

Mr Kennedy: It's simply for consistency in wording, using the definition that was taken by the committee in earlier sections.

Mr Grandmaître: But you agree there would be no changes, though?

Mr Kennedy: Yes, I do.

Mr Brown: Following on my colleague's question, we, as you would remember, Mr Chair, have had very interesting discussions, and quite lengthy, revolving around the definition section of the bill, which was in

part 1, and revolving around what a forest ecosystem actually was.

The Vice-Chair: I remember it well.

Mr Brown: I knew you would, Mr Chair. It was brief, but I'm sure it was etched in your memory.

This is just trying to clarify a point that was made back whenever those committee discussions took place in September. At that time, I asked the ministry if Ontario Place was a forest ecosystem and whether that is still the case and would be described that way, because my understanding of the criteria that are put forward in this bill supports the information that Ontario Place is a crown forest. As such, therefore, is Ontario Place subject to this act?

Mr Wood: I'm going to have to try to recall. I don't have a copy of Hansard here in front of me at this moment and the explanation that was given. I'm sure there was an explanation given. It's not written down as a management unit. That's consistent with the explanation that was given in more detail a few weeks ago.

Mr Brown: But a crown forest isn't required to be, of necessity, in a management unit. It's described as a unit or on crown land, ie, Ontario Place, that will or could support a forest, whether there are any trees on it or not. According to this definition, if it could support a forest, it is a forest.

Mr Wood: I'm looking at the definitions on page 3:

"'Crown forest' means a forest ecosystem or part of a forest ecosystem that is on land vested in Her Majesty in right of Ontario and under the management of the minister."

Mr Brown: Which is the case in Ontario Place.

The Vice-Chair: Any further questions?

Mr Brown: I asked this question on September 13 and haven't received—

Mr Bisson: Can I just ask a question?

The Vice-Chair: When you have the floor. You don't have it yet.

Mr Brown: I understand the answer to my question is yes.

Mr Grandmaître: Yes; that was the answer.

The Vice-Chair: Okay. So we don't have a question any more. Mr Bisson?

Mr Bisson: That clarifies it. It's okay.

The Vice-Chair: Any further questions on Mr Wood's amendment?

Mr Brown: I'm trying to think this through, because we have things happening at Ontario Place that would be subject to this act.

Mr Bisson: On a point of order, Mr Chairman: I thought we were in the process of a vote. You had called for the vote.

The Vice-Chair: Well, we're getting close to it, but it's sometimes difficult, frankly, to know exactly whether Mr Brown still wants to maintain the floor or he doesn't. It seems to me that Mr Brown indicated somewhat into the beginning of the calling of the vote. Mr Brown, do you have further comments?

Mr Brown: We've gone through this for some weeks now, and if the government just wants to vote, let them vote. We don't change their minds about anything. We asked for unanimous consent here to fix a bill they should have fixed, because we're under closure. We're the ones who permitted the government to fix its own legislation. The government wouldn't take into account any of the suggestions that the opposition made. Vote.

Mr Bisson: I just want to point out to the member opposite, Mr Brown from the Liberal Party, that there were a number of amendments—

Mr Brown: Vote, Gilles.

Mr Bisson: We will be voting in a second, but there were a number of amendments that were brought forward by the opposition parties. Specifically in this section that we're dealing with, you had amendments asking us to change the wording from "may" to "shall." We have done it. We've been listening not only to the opposition but also to members of the industry and the general public. That's what the process of the bill has done.

The Vice-Chair: Any further questions on Mr Wood's amendment?

Mr Brown: Send that out in your next newsletter.

The Vice-Chair: Are we ready to vote? All those in favour of Mr Wood's amendment? Opposed? Carried.

Any further amendments to section 66?

Shall section 66, as amended, carry? Carried.

1130

Section 67. Unanimous consent was given earlier to reopen section 67 since there is a consequential amendment. Mr Wood.

Mr Wood: I move that subsection 67(1) of the bill be amended by adding the following paragraph:

"27.1 governing public reviews and comments referred to in subsection 66(2.2);"

The Vice-Chair: Any comments, questions?

Mr Grandmaître: What does it mean?

Mr Wood: It's fairly clear it's an amendment that was needed to make sure that there were public reviews and comments, as changes were made under subsection 66(2.2).

Mr Grandmaître: We don't have a copy of this amendment, Mr Chair.

The Vice-Chair: Number 79A?

Mr Grandmaître: Yes. Oh, 79A.

The Vice-Chair: Are we clear now?

All those in favour of Mr Wood's amendment to section 67? Opposed? Carried.

Any further amendments to section 67?

Shall section 67, as amended, carry? Opposed? Carried.

We're now going back to section 86. Mr Brown.

Ms Sharon Murdock (Sudbury): You don't like the title.

Mr Brown: Ms Murdock just made my speech: I don't like the title.

Ms Murdock: Only I said it much more succinctly.

The Vice-Chair: Mr Brown has the floor.

Mr Brown: Mr Chair, this piece of legislation is under closure, literally.

Mr Wood: It's time allocation.

Mr Brown: All right, time allocation; I'm happy with "time allocation" if that's what you want to call it. What it means is that this does not get reviewed in COW. That means committee of the whole House will not have a look at this bill, as is the normal process in this place with a bill that needed unanimous consent from the opposition to reopen.

We will have a mere one hour to speak to this upstairs. That will mean total debate in the Legislature of Ontario on a bill affecting 60,000 working people and their families in this province merits all of one hour on third reading, two hours in total in the Legislature of Ontario. It's absolutely remarkable. It affects 80% to 90% of the land mass of the province of Ontario, has over 1,000 pages of manuals and regulations, and the government is allocating one hour to speak to it. A private member's bill gets one hour. This is a major piece of legislation.

Right from the very beginning my largest problem with this piece of legislation—and I have many problems with it—the largest difficulty I had was the absolute arrogance, indeed hypocrisy, of deciding that any Legislature knows what forest sustainability really is. This is but the Crown Timber Act with another name; group after group after group after group came before this committee and said exactly that.

It is offensive; perhaps only the arrogance of somebody who chains himself to trees, who leads a government like that, could come and say to us, "This is for sustainability." It is amazing, absolutely astounding, that anybody could have that kind of absolute gall. If anything, I want to congratulate the government on its ego, because the title of this bill is absolutely offensive to any thinking person, totally without parallel in parliamentary democracy in this place.

Therefore, we will be voting against this, because this is the Crown Timber Act. It is nothing more, and it is in many ways worse than the present Crown Timber Act. It does have some improvements, but on balance I wouldn't get so excited as to say this is going to maintain forest sustainability, and I wouldn't be as presumptuous as this government in pinning a title like this to such nonsense.

Mr Bisson: This being the last opportunity to speak to the bill in regard to section 86, I just want to say this: Yes, the title is very befitting of what the bill is, because it's exactly what it is; it's a Crown Forest Sustainability Act. We have now been working for quite a few years in this province in order to get to this point.

You would know, Mr Brown, from the time that you were in government, that your government had an opportunity to move forward on similar legislation, and for whatever reasons, and I'm not going to get into the public discussion, you decided not to.

This government feels, and feels strongly, that we need to position our Ontario industry in such a way that we're able to make sure that we keep our foothold and we keep our opportunities for expansion and we keep our oppor-

tunities in regard to trade with other nations, because they're looking at us a lot more now in regard to how we manage our forests in terms of getting into those markets. This act does that. We've now been out on public hearings for over three weeks. We were supposed to do three and a half days of clause-by-clause; we're about eight days of clause-by-clause now.

We've had numerous meetings. I know you've had, Mr Brown, and Mr Hodgson has, members of the government, Mr Wood, myself and Mr Hampton, the minister, have met with industry and the environmentalists probably far more, quite frankly, than on any other bill of this type in the history of this province. I know that opposition members have done a good job of making sure that they bring their concerns forward to the industry and vice versa, that the industry brings its concerns forward to the opposition and to the government.

I think the parliamentary assistant and the minister and the staff of MNR really need to be congratulated on the work they've done with the industry to come to the kind of compromises necessary to be able to manage our forests well into the year 2000. This act does that.

I feel quite strongly and am quite proud that this government has had the courage to stand up and do what needs to be done in this act. Yes, I am represented by a Premier who stands for principles. That is something that I am quite comfortable with and quite proud of. It is much better, I would say in this parting shot, being represented by a leader who at least stands for something, as I wonder what the leader of the official opposition stands for at times.

But I would say that this is a good act, it goes in the right direction, and I would move that we vote on section 86.

Mr Wood: Just briefly, I'm pleased to see the Honourable Howard Hampton in the audience as we're getting very close to wrapping up on Bill 171.

Mr Brown: Peering out between the bushes.

The Vice-Chair: Mr Wood has the floor, please.

Mr Wood: I'd just like to say that I'm pleased with the cooperation we've had getting to this point and that Bill 171 is something that everybody's going to be able to look back at and feel proud that it's going to sustain jobs in the single-industry communities and it's going to create new jobs as we move around. I'd just like to say thank you to everybody who's been involved in it, all the staff, especially our staff from MNR who have been here sitting with us all the way through.

Mr Hodgson: Seeing that this is one of the last chances I'll get to speak, I would like to thank Franco and all the staff and the Hansard people for the hospitality they've shown to myself and Gary Carr when we travelled the north, all the extra work. I'd like to thank the Chair for his leniency and patience and also the government and the senior staff of MNR.

But in particular on section 86, and that's what we're dealing with, I think it's inappropriate that it be in section 86. I believe that the intent is that this should be in the purpose section of the act. This is the reason we've gone

through these hearings, to get a short-titled act so that they can put in the government members' campaign brochures and on TV ads that they've done the Crown Forest Sustainability Act. So I think it's inappropriate that it's at the end; it should be in the purpose section.

Mr Brown: As we unfortunately come to a grinding halt on this act, I would also just like to thank the ministry staff in particular for their forbearance through this rather brief experience in looking at the forests of Ontario and the jobs that they create and the opportunities they present to the people of Ontario.

I appreciate those—I look over and see some of them sitting over there—who have been through this process with us, and I know that, particularly in the bureaucracy, the Legislature works in very wonderful ways, even though this is rushed through. I remember them preparing manuals over weekends and doing things that are above and beyond the call of duty from their particular perspective. Of course, we appreciate that and we appreciate what the clerk and Hansard staff have done and certainly look forward to some more public hearings in northern Ontario where we will be able to take members from southern Ontario to see exactly what we're talking about when we get excited about trees.

I've had some members from all parties express appreciation for the opportunities they've had to be in northern Ontario, and I think that was important from that perspective. Particularly in some of the smaller communities we visited, I think that was a great help to members.

That doesn't take away from our views of the bill, but that certainly was an educational experience that all northerners appreciate. I know that one of the members on the government side, who isn't here today, was fond of saying that the only thing he had to do with forests was that he had a street named Driftwood in his constituency and they're now just calling it Drift.

We appreciate the opportunity we've had to do that, but on a policy note I would just ask the bureaucracy in the government to develop these regulations and manuals in the most expedient and quick manner and proclaim this bill very quickly, because it may not ever be proclaimed if there is another government in the province of Ontario, and I suspect that may be the verdict.

Ms Murdock: No, you just wish; that's your wish list.

The Vice-Chair: Are we ready to vote? Shall section 86 carry? Opposed? Carried.

Shall Bill 171, as amended, carry? Opposed? Carried.

Shall I report the bill, as amended, to the House? Agreed? Opposed? Carried.

I thank the members of the committee for making my job relatively easy. As was mentioned already, we also appreciate the work of all the staff who were involved in passing this bill and making it possible to report it to the House. So thank you very much.

This committee stands adjourned until the call of the Chair.

The committee adjourned at 1143.

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STANDING COMMITTEE ON GENERAL GOVERNMENT

***Chair / Président:** Brown, Michael A. (Algoma-Manitoulin L)

***Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)

Arnott, Ted (Wellington PC)

***Dadamo, George** (Windsor-Sandwich ND)

***Grandmaître, Bernard** (Ottawa East/-Est L)

Hope, Randy R. (Chatham-Kent ND)

Johnson, David (Don Mills PC)

Mammoliti, George (Yorkview ND)

***Morrow, Mark** (Wentworth East/-Est ND)

Sorbara, Gregory S. (York Centre L)

***Wessenger, Paul** (Simcoe Centre ND)

White, Drummond (Durham Centre ND)

**In attendance / présents*

Substitutions present / Membres remplaçants présents:

Bisson, Gilles (Cochrane South/-Sud ND) for Mr White

Hodgson, Chris (Victoria-Haliburton PC) for Mr Dave Johnson

Murdock, Sharon (Sudbury ND) for Mr Mammoliti

Wood, Len (Cochrane North/-Nord ND) for Mr Hope

Also taking part / Autres participants et participantes:

Ministry of Natural Resources:

Cleary, Ken, manager, program development, renewable resources

Kennedy, Frank, senior coordinator, timber management

Wood, Len, parliamentary assistant to the minister

Clerk / Greffier: Carrozza, Franco

Staff / Personnel: Filion, Sibylle, legislative counsel

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